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**MUNICIPAL CODE**  
**OF THE PROVINCE OF QUEBEC.**

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UNIVERSITÉ DE MONTRÉAL



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THE MUNICIPAL CODE  
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PROVINCE OF QUEBEC

(AS AMENDED UP TO 1st SEPTEMBER 1890)

WITH

THE QUEBEC LICENSES ACT, WITH AMENDMENTS; THE FIRST PART OF  
THE QUEBEC ELECTION ACT, WITH AMENDMENTS; TOGETHER  
WITH REPORTED DECISIONS RELATING THERETO, THE  
LAW ON MASTERS AND SERVANTS, THE LAW  
CONCERNING JURORS AND JURIES, A RURAL  
CALENDAR AND AN ANALYTICAL  
INDEX, ETC., ETC.

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CHAPTER I.  
" II.

Section I.  
2 I.

2 II.

III.

IV.

2 V.

Section II.

I.

II.

III.

IV.

2 V.

CHAPTER III.

Section I.

# TABLE OF CONTENTS.

## PRELIMINARY TITLE.

EXTENT OF THE MUNICIPAL CODE; DECLARATORY AND INTERPRETATIVE PROVISIONS.....	1
--	---

## BOOK FIRST.

### ORGANIZATION OF MUNICIPAL CORPORATIONS.

	PAGES
<b>TITLE FIRST.—ERECTION OF MUNICIPALITIES.....</b>	<b>12</b>
Preliminary provision.....	12
<b>CHAPTER I.—ERECTION OF COUNTY MUNICIPALITIES.....</b>	<b>12</b>
“ II.—ERECTION OF LOCAL MUNICIPALITIES.....	13
Section I.—Rural municipalities.....	13
2 I.—Of municipalities of a parish or of part of a parish.....	14
2 II.—Of municipalities of a township or of part of a township.....	16
III.—Of united township municipalities.....	17
IV.—Annexation of a territory to a rural municipality.....	17
V.—Separation of a territory annexed or united to another.....	18
Section II.—Of town and village municipalities.....	20
1. —Of existing town and village municipalities...	20
II.—Erection of new village municipalities.....	20
III.—Erection of new town municipalities.....	24
IV.—Annexation of a territory to a town or village municipality.....	24
V.—Annexation of a town or village municipality to an adjoining local municipality.....	25
<b>CHAPTER III.—EFFECT OF THE CHANGE OF THE LIMITS OF A MUNICIPALITY UPON THE OBLIGATIONS AND RIGHTS OF RATE PAYERS.....</b>	<b>26</b>
Section I.—Settlement and division of Joint debts.....	26

## TABLE OF CONTENTS

Section II.—Division of Common property .....	29	TITLE
“ III.—Miscellaneous provisions.....	29	CHAPTER
TITLE SECOND.—PROVISIONS COMMON TO ALL MUNICIPAL COR-		Section
PORATIONS .....	31	“
CHAPTER I.—OF THE MUNICIPAL COUNCIL .....	31	CHAPTER
Section I.—General provisions .....	31	CHAPTER
“ II.—Of the members of the council .....	35	Section
“ III.—Provisions specially applicable to the head of		“
the council .....	37	CHAPTER
“ IV.—Of the sessions of the council .....	38	CHAPTER
CHAPTER II.—OF THE OFFICERS OF THE MUNICIPAL COUNCIL..	42	Section
Section I.—Of the secretary-treasurer ....	42	“
“ I.—Of the security furnished by the sec.-treasurer.	43	CHAPTER
“ II.—General duties of the secretary-treasurer. ....	46	CHAPTER
Section II.—Of the auditors.....	51	CHAPTER
“ III.—Of appointments by the lieutenant-governor..	52	CHAPTER
“ IV.—Miscellaneous provisions.....	53	CHAPTER
CHAPTER III.—OF PERSONS BOUND TO ACCEPT MUNICIPAL OF-		CHAPTER
FICES AND OF THOSE INCAPABLE OF OR EXEMPT		Section
FROM DISCHARGING THEM.....	56	“
Section I.—Of persons bound to accept municipal offices.	56	CHAPTER V
“ II.—Of persons disqualified for municipal offices.	56	CHAPTER V
“ III.—Of persons exempt from municipal offices....	58	Section
CHAPTER IV.—OF MUNICIPAL NOTICES .....	59	“
Section I.—General provisions .....	59	“
“ II.—Of special notices .....	61	“
“ III.—Of public notices.....	62	Section
CHAPTER V.—OF THE LANGUAGES TO BE USED IN THE COUNCIL		“
AND IN MUNICIPAL PROCEEDINGS.....	65	“
TITLE THIRD.—PARTICULAR RULES APPLICABLE TO COUNTY		Section
CORPORATIONS .....	66	“
CHAPTER I.—OF THE COUNTY COUNCIL.....	66	Section
General provisions.....	66	“
Section I.—Of the warden.....	67	“
“ II.—Of the sessions of county councils.....	68	Section
CHAPTER II.—OF COUNTY DELEGATES.....	69	“
Section I.—General provisions.....	69	“
“ II.—Of the board of delegates.....	70	Preliminary



## TABLE OF CONTENTS

### TITLE FOURTH.—RULES COMMON TO EVERY LOCAL MUNICIPAL CORPORATION.....

	<b>CHAPTER I.—OF THE LOCAL COUNCIL.....</b>	72
	Section I.—General provisions.....	72
	“ II.—Of persons disqualified from acting as councillors.....	72
	“ III.—Of sessions of the council.....	74
	<b>CHAPTER II.—OF MUNICIPAL ELECTORS.....</b>	75
	<b>CHAPTER III.—ELECTIONS OF LOCAL COUNCILLORS.....</b>	76
	Section I.—Time of holding general elections; notice re-	77
	quired therefor.....	77
	“ II.—Of the officer presiding at the elections.....	78
	“ III.—Meeting of municipal electors.....	80
	<b>CHAPTER IV.—APPOINTMENT OF LOCAL COUNCILLORS BY THE</b>	
	<b>LIEUTENANT-GOVERNOR.....</b>	87
	<b>CHAPTER V.—APPOINTMENT OF MAYOR.....</b>	88
	<b>CHAPTER VI.—VACANCIES IN THE LOCAL COUNCIL.....</b>	
	Section I.—Vacancies in the office of councillor.....	89
	“ II.—Vacancies in the office of mayor.....	89
	<b>CHAPTER VII.—CONTESTED APPOINTMENTS OF MEMBERS OF THE</b>	
	<b>LOCAL COUNCIL.....</b>	92
	<b>CHAPTER VIII.—OF THE OFFICERS OF THE LOCAL COUNCIL..</b>	
	General provisions.....	98
	Section I.—Provisions specially applicable to the secre-	98
	tary-treasurer of the local council.....	99
	“ II.—Of Valuers.....	101
	“ III.—Of road inspectors.....	101
	“ IV.—Of rural inspectors.....	110
	I.—Public nuisances.....	113
	II.—Clearances.....	113
	III.—Boundary ditches.....	114
	IV.—Boundary fences.....	116
	Section V.—Of pound keepers.....	117

## BOOK SECOND.

### POWERS OF MUNICIPAL COUNCILS.

Preliminary provisions.....		122
-----------------------------	--	-----

## TABLE OF CONTENTS

Section  
"  
"  
"  
"  
"  
CHAPTER  
Section  
"  
"  
"  
CHAPTER  
Section  
"  
"  
CHAPTER V  
TITLE SEC  
CHAPTER  
CHAPTER  
CHAPTER  
CHAPTER  
TITLE THI  
CHAPTER  
CHAPTER  
Section  
"

# TABLE OF CONTENTS

VII

Section VIII.—Trade licenses.....	156
“ IX.—Personal taxes.....	158
“ X.—Indemnities and relief.....	158
“ XI.—Public nuisances.....	159
“ XII.—Decency and good morals.....	160
“ XIII.—Public health .....	161
“ XIV.—Miscellaneous provisions.....	162

CHAPTER V.—BY-LAWS SPECIALLY WITHIN THE JURISDICTION OF TOWNS OR VILLAGE COUNCILS.....	163
---	-----

Section I.—Division of the municipality into wards.....	163
“ II.—Masters and servants.....	165
“ III.—Public markets.....	165
“ IV.—Water and lights.....	167
“ V.—Public nuisances.....	171
“ VI.—Miscellaneous provisions.....	173

CHAPTER VI.—FORMALITIES TO BE OBSERVED BEFORE MUNICIPAL BY-LAWS ARE CARRIED INTO EFFECT OR INTO FORCE.....	176
--	-----

Section I.—Approval by municipal electors.....	176
“ II.—Approval of the lieutenant-governor.....	179
“ III.—Promulgation of municipal by-laws.....	180

CHAPTER VII.—ANNULMENT OF MUNICIPAL BY-LAWS.....	181
--	-----

TITLE SECOND.—VALUATION OF TAXABLE PROPERTY..	186
---	-----

CHAPTER I.—WHAT PROPERTY IS TAXABLE.....	186
--	-----

CHAPTER II.—MAKING OF THE VALUATION ROLL.....	190
---	-----

CHAPTER III.—EXAMINATION OF THE VALUATION ROLL.....	195
---	-----

CHAPTER IV.—GENERAL PROVISIONS.....	198
-------------------------------------	-----

TITLE THIRD.—OF MUNICIPAL ROADS.....	204
--------------------------------------	-----

CHAPTER I.—GENERAL PROVISIONS .....	204
-------------------------------------	-----

CHAPTER II.—MODE OF DRAWING UP A PROCÈS-VERBAL AND THE ACTS OF APPORTIONMENT WHICH RELATES THERE TO.....	225
--	-----

Section I.—Of the procès-verbal.....	225
“ II.—Of the act of apportionment.....	232



## TABLE OF CONTENTS

Section	III.—General provisions.....	234
CHAPTER	III.—OF PERSONS LIABLE FOR WORK ON ROADS IN THE ABSENCE OF A PROCÈS-VERBAL OR BY-LAW..	235
Section.	I.—General provisions.....	235
"	II.—Of front roads.....	235
"	III.—Of by-roads .....	236
CHAPTER	IV.—OF WINTER ROADS .....	237
Section	I.—General provisions.....	237
"	II.—Of winter roads which replace municipal summer roads.....	240
"	III.—Of winter roads on rivers.....	240
TITLE FOURTH.	—OF MUNICIPAL BRIDGES.....	243
TITLE FIFTH.	—OF FERRIES.....	245
TITLE SIXTH.	—OF MUNICIPAL WATER-COURSES.....	246
TITLE SEVENTH.	—OF OTHER PUBLIC WORKS OF MUNICIPAL CORPORATIONS.....	255
TITLE EIGHTH.	—EXPROPRIATION FOR MUNICIPAL PURPOSES...	257
TITLE NINTH.	—APPEALS TO THE COUNTY COUNCIL.....	263
TITLE TENTH.	—MUNICIPAL TAXES AND DEBTS.....	267
CHAPTER	I.—MUNICIPAL TAXES.....	267
Section	I.—General provisions.....	267
"	II.—Collection of taxes in local municipalities.....	274
CHAPTER	II.—MUNICIPAL DEBTS.....	280
Section	I.—General provisions.....	280
"	II.—Special provisions respecting municipal de- bentures .....	283
TITLE ELEVENTH.	—SALE OF LANDS LIABLE FOR MUNICIPAL TAXES IN DEFAULT OF PAYMENT.....	287
CHAPTER	I.—SALE AND ADJUDICATION OF LANDS.....	287
CHAPTER	II.—REDEMPTION OF LANDS ADJUDGED.....	294

TITLE

TITLE

CHAPTE

CHAPTER

TITLE

E  
F  
APPEN  
FO

Interpret  
General p  
By whom  
Licenses  
Special m  
Other pro  
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Pedlars' li  
Ferry licen  
Billiard ta  
Licenses fo  
Circuses...  
Duti's pay  
Tariff of du  
On licenses  
Licenses fo  
Auctioneer  
Pawnbroker  
Pedlars' lice

# TABLE OF CONTENTS

IX

## BOOK THIRD.

### SPECIAL PROCEEDINGS.

TITLE FIRST.—EXECUTION OF JUDGMENTS RENDERED AGAINST MUNICIPAL CORPORATIONS.....	297
---	-----

TITLE SECOND.—RECOVERY OF PENALTIES IMPOSED IN VIRTUE OF THIS CODE.....	301
--	-----

CHAPTER I.—GENERAL PROVISIONS.....	301
------------------------------------	-----

CHAPTER II.—OF PROSECUTIONS BEFORE JUSTICES OF THE PEACE.	304
---	-----

TITLE THIRD.—APPEALS TO THE CIRCUIT COURT.....	305
--	-----

EXCEPTIONAL PROVISIONS .....	311
FINAL PROVISIONS.....	315
APPENDIX.....	317
FORMS.....	317 to 329

### QUEBEC LICENSE ACT.

Interpretatory and Explanatory clause and definitions... ..	329
General prohibitions .....	332
By whom licenses are issued and their duration.....	332
Licenses for inns.—General mode of obtaining them... ..	333
Special mode for the Cities of Hull and Three Rivers.. ..	337
Other provisions applicable to all licenses.....	338
Restaurant licenses.....	340
Steamboat bar and temperance hotel licenses.....	340
Liquor shop licenses .....	340
Licenses of Railway buffets and of taverns at the gold mines.	341
General restriction .. ..	341
Auctioneers' licenses.—Mode of obtaining them.....	343
Pawnbrokers' licenses.....	343
Pedlars' licenses —For what objects they are obtained .....	343
Ferry licenses —By whom they must be procured.....	344
Billiard table licenses.—Mode of obtaining them.....	344
Licenses for powder magazines.....	345
Circuses.....	345
Duties payable on each license.....	346
Tariff of duties payable for licenses under the present law....	346
On licenses for the sale of intoxicating liquors .....	346
Licenses for temperance hotels.....	348
Auctioneers' licenses.....	348
Pawnbrokers' licenses.....	348
Pedlars' licenses.....	348

# TABLE OF CONTENTS.

Ferry licenses .....	349
Billiard table licenses.....	"
Provision as to determination of rate of rent.....	"
Powder magazine licenses .....	"
Circus or menagerie licenses .....	350
Powers of the Lieutenant-Governor as to the reduction of the duties on licenses, and other provisions.....	351
Duties of the collector of provincial revenue as regards the issuing of licenses.....	352
Penalties for infractions of this law by illicite sale of intoxicating liquors and certain fraudulent practices.....	353
Obligations imposed upon licenses herein above mentioned, penalties for contraventions .....	356
Other penal provisions .....	358
Obligations imposed upon Pawnbrokers, and penalties for contraventions by them committed .....	363
Regulations relative to ferries .....	370
Fines and penalties relative to the keeping of billiard tables..	"
Fines and penalties relative to powder magazines and to the sale of powder.....	371
Fines and penalties relative to circuses and menageries.....	373
Searches in connection with the contraventions of the provisions of the present law, and the particular duties of license inspectors relative to the same .....	374
How and before what tribunals prosecutions shall be brought for such contraventions. General provisions.....	375
In whose name prosecutions are instituted and the procedure thereon.....	376
Judgments .....	379
Provision as regards costs.....	"
Provisions relative to the execution of judgments .....	381
Recourse by <i>certiorari</i> .....	382
How duties and fines shall be applied.....	383
Additional enactments regarding prosecutions.....	385
Additional duties and privileges of collectors of provincial revenue .....	386
Final provisions.....	"
Form of certificate for obtaining a license to keep an inn, tavern or restaurant.....	387
Form of affidavit to be made by a person desirous of obtaining a license to keep a house of public entertainment. ....	388
When the certificate is confirmed under the provisions of the articles 14 and 33 .....	"
Form of attestation mentioned in article 25.....	389
Form of declaration.....	"
Form of summons.....	390
Certificate of service of summons.....	391
Form of conviction .....	"

Form  
Warra  
Warra  
Convic  
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Condit  
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List of  
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Appeal  
gistra  
Miscella  
Division  
School t  
Jurors a

ANALY  
RURAL  
CAUSES

# TABLE OF CONTENTS

XI

Form of warrant of distress .....	392
Warrant of commitment in default of distress.....	393
Warrant of commitment in the first instance.....	394
Conviction ordering imprisonment.....	396
Warrant of seizure and sale....	397
Conviction ordering seizure.....	399
Masters & servants.....	400

## QUEBEC ELECTION ACT.

403

Conditions requisite to be an elector.....	405
Persons who can neither be elector nor voters.....	407
List of parliamentary electors.....	407
Examination and putting into force of the list.....	410
Appeal to a judge of the superior court or to the district magistrate.....	412
Miscellaneous provisions.....	413
Division of the municipality into voting subdivisions.....	414
School taxes and valuation.....	418
Jurors and juries.....	419

## ANALYTICAL INDEX OF THE MUNICIPAL CODE.....

XIII

## RURAL CALENDAR.....

XXIX

## CAUSES CITED.....



R

BEING AN E  
TIONS, FU  
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# MUNICIP

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# RURAL CALENDAR

BEING AN ENUMERATION OF THE SEVERAL ACTS, OPERATIONS, FUNCTIONS AND DATAS IN THE ADMINISTRATION OR GOVERNMENT OF A MUNICIPALITY UNDER THE MUNICIPAL CODE.

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## JANUARY.

**MUNICIPAL ELECTIONS.**—Take place every year, on the second Monday at 10 hrs. a. m. in the month of January. *Art. 292.*

The office of municipal councillor lasts three years, *Art. 277*, except in the cases of articles 116 and 279.

The required qualification is four hundred dollars. *Art. 283.*

One year after the first election, the electors shall chose two councillors during two consecutive years, and three the following year. *Art. 279.*

The President of the election is appointed by the local council; if no President is appointed, the Secretary-Treasurer is *ex officio* the presiding officer of the election. *Art. 296.*

Within the three days next after the close of the election, the officer presiding must give to each of the councillors elected, special notice of his election. *Art. 302.*

And within eight days, same notice to the Warden or to the Secretary-Treasurer of the county council. *Art. 303.*

If a poll has been held, he delivers up within the said delay of eight days, the poll books at the office of the local council. *Art. 304.*

**OATH.**—Before entering into duty, the councillors elected must make oath. *Art 108.*

**MAYOR.**—At the first session after the election, the councillors appoint a Mayor. *Art. 330.*

The Mayor must be able to read and write. *Art. 335.*

So soon as the appointment of Mayor has been made, the Secretary-Treasurer must give a special notice of the fact to the Warden of the county. *Art. 331.*

The meeting for the election must be held at the place where the local council holds its sessions, and at the hour of ten in the forenoon. *Art. 307.*

The Mayor must make oath of office. *Art. 333.*

The local council holds its sessions, on the first Monday in every month, except in the case of *art. 611*, which permits to the council to limit the number of general sessions to not less than four in the year. *Art. 287.*

Four members form a quorum of the council. *Art. 289.*

The notice for a special session or for an adjournment, must be given to the members of the council, at least two days before the day fixed. *Art. 290.*

**MUNICIPAL REPORTS.**—Every year during the month of January, the Secretary-Treasurer, must forward to the provincial Secretary, the report mentioned in *art. 168.*

**SALE OF LANDS.**—In each year, before the eighth day of the month of January, the Secretary-Treasurer of the county council must prepare a list of all the lands subject to sale for municipal taxes, from the statements transmitted to him by the Secretaries of the local councils. *Arts. 998, 999.*

Said list is accompanied by a public notice setting forth that such lands are to be sold at public auction on the first Wednesday of the month of March next, and published in the Quebec *Official Gazette*, and in one or more news papers during the month of January. *Arts. 998-999.*

**SECRETARY TREASURER.**—Appointed by the council within thirty days after the entry into office. *Art. 142.*

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The Secretary-Treasurer remains in office during the pleasure of the council. *Art. 143.*

He must make oath and give security. *Art. 144.*

He may appoint an Assistant-Secretary Treasurer, who has the same powers as himself; the assistant must make oath. *Art. 145.*

The Secretary-Treasurer is bound to render, during the month of January in each year, a detailed account of his receipt and expenditure up to the thirty first day of the month of December preceding. *Art. 166.*

The Secretary-Treasurer of the local council is bound yearly, between the first and thirty first days of January each year to transmit to the provincial Secretary the return required by *art. 168*; and the Secretary of the county council, the statement required by *art. 168*.

**PROVINCIAL REGISTRAR.**—The provincial registrar, must transmit during the month of January in each year, a list of the public lands for which letters patent have been issued during the preceding year, to the Registrars and Secretaries-Treasurers of the county municipalities in which such letters patent have been issued. *Art. 715.*

## FEBRUARY.

**EXAMINATION OF ACCOUNTS.**—The auditors are bound to make an examination of all the accounts of the corporation in the month of February. *Art. 176.*

**VALUATION.**—In the counties of Gaspé and Bonaventure the valuation roll must be drawn up in the months of February and March. *Art. 716.*

**MILITIA ROLLS.**—The duty imposed upon the valuers, to draft the militia roll, between the first of February and the first May in each year, according to section 12, cap. 2, 27 Vict., is at present fulfilled by the captains with the aid of the officers commissioned and non commissioned, of companies. *R. S. C., p. 648.*



## MARCH.

**COUNTY COUNCIL.**—Is composed of all the Mayors in office of all the local municipalities in the county. *Art. 246.*

**QUORUM OF THE COUNCIL.**—The sessions take place on the second Wednesday of each of the months of March June, September and December. *Art. 256.*

**WARDEN.**—During the month of March, the Mayors appoint a Warden chosen amongst themselves, who presides over the county council. *Art. 248.*

The notice of special sessions and of adjournments to be given at least ten days before. *Art. 260.*

**COUNTY DELEGATES.**—The county delegates are appointed during the month of March and are three in number. *Art. 261.*

The warden is *ex officio* one of the county delegates, except in the case mentioned in *articles 263 and 264.* *Art. 262.*

Every local council must appoint, in the month of March in every second year:

1o Three valuator.

2o A road inspector for every division in the municipality.

3o A rural inspector for every division.

4o As many pound keepers as it deems necessary *Art. 365.*

**VALUATORS.**—The qualification for valuator is four hundred dollars. *Art. 374.*

He makes oath. *Art. 366.*

The council must also appoint one or two auditors in the month of March. *Art. 173.*

They make oath and they must know how to read and write. *Arts. 174, 175.*

**SALES OF LANDS.**—On the first Wednesday of the month of March in each year, the Secretary Treasurer

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of the county council, sells the lands upon which arrears of taxes remain due, *Art. 938.*

Such sale to be held at ten o'clock in the forenoon, free of auction fee, *R. S. Q. Art. 6206.*

**ELECTORAL LIST.**—In each year, from the first to the fifteenth day of March, the Secretary Treasurer of every municipality is bound to make in duplicate the alphabetical list of all persons, who according to the valuation roll then in force in the municipality, for electoral purposes, appear as electors on account of real estate owned or occupied by them in the municipality; *R. S. Q. Arts 177, 178*

A duplicate of said list shall be kept in the office of the secretary for the information of all parties interested therein, *Id. 185*

He shall at once give notice of said deposit, *Id. 186*

The municipal Council may within thirty days from date of said notice examine the list and make corrections thereto. *Id. 192*

The Council before examining the list will cause a public notice to be given of the hour and day when such examination will commence: *Id. 195.* After the revising of the list a duplicate of it is deposited into the archives of the council, the other duplicate is transmitted to the registry office. *Id. 203*

#### APRIL.

**BY-ROADS.**—The works of keeping by-roads are given, each year to the lowest tenderer, by the road inspector after public notice in the month of October for the period included between the 1st November and the 30th of April inclusively and in the month of April for the period included between the first day of May and the thirty first day of October inclusively. *Art. 828.*

**FENCES.**—Fences levelled along winter roads may be re erected before the 1st day of April.

#### MAY.

**APPORTIONMENT.**—Before the fifteenth day of May the Secretary-Treasurer of the County Council is

bound to make an apportionment of the taxes to be levied upon the local municipalities of the County. *Art. 940.*

**LICENSES.**—Tavern licenses expire on the first day of May every year. *R. S. Q., 834.* A license granted for a water course is good only for five years. *Art. 552.*

Local Councils only have the right to refuse or grant licenses for the sale of liquors. *Art. 561.* The by-law to that effect becomes obligatory on the 1st day of May following its adoption.

Now this power is partly given to a tribunal appointed by an act of the federal parliament in the year 1883.

Section 7 of chapter 2. 34 Vict., says that the revenue inspector cannot grant a license to keep a public house unless the applicant for such, produces a certificate signed by a certain number of electors and confirmed by the municipal Council. *R. S. Q., Art., 835, 839.*

For a store license a certificate signed by 25 electors is sufficient. *R. S. Q., Art. 826.*

**REPORT.**—During the month of May every railway company must transmit to the office of the Council a return showing the actual value of their real estate in the municipality. *Art. 720.*

## JUNE.

**ROADS INSPECTOR.**—Every year, between the first and fifteenth day of June, go over and inspect the works in his division, make a report in writing, to the Council, of the works performed and of those remaining to be performed. *art. 404.*

Noxious weeds on municipal roads must be cut down and destroyed between the twentieth day of June and the 10th of July in each year. *art. 778.*

**VALUATION.**—In the months of June and July in every three years the valuers must draw up a valuation roll of the property in the municipality. *art. 716.*

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*art. 875.*

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**MUNICIPAL WATER COURSES.**—Must be kept in good order for the whole period between the first day of June and thirty first day of October following. *art. 875.*

The rural inspector must between the first and fifteenth days of the month of June in each year and thereafter until the month of November following visit the water courses under his superintendence, *art. 876.*

The provincial Secretary must compile annually, in the month of June, from the returns transmitted to his office in conformity with *art. 168*, the statement required by *art. 979.*

## JULY.

**VALUATION ROLL.**—Every third year, during the months of June and July, the valuers must draw up a valuation of the property in the municipality. *art. 716.*

There is an exception for the counties of Gaspé and Bonaventure, in which the valuation roll must be drawn up in the months of February and March. *Same art.*

The local councils shall in the months of June or July, in any year in which a new valuation roll is not made, revise and amend the valuation roll in force for local purposes only. *art. 746a.*

The valuers must deposit the valuation roll in the office of the Council within the prescribed delay.—Such deposit cannot be made after the prescribed delay has expired.

So soon after such deposit is made, the Secretary-Treasurer must give public notice thereof, *art. 732.*

The local council must within thirty days next after the above mentioned notice, *art. 734*, is given, revise the valuation roll.

Before the local Council proceeds to the examination of the roll, it must make known by public notice, the day at which he will begin the same. *Art. 736.*

The Secretary-Treasurer and the Mayor are bound to forward to the office of the County Council and to the

provincial Secretary within ten days after the expiration of the thirty days mentioned in article 734, a certified copy of the valuation roll as it then stands. *Art. 739.*

The County Council must during the month of September following examine all the valuation rolls made in the municipalities of the county, transmitted to his office and establish a proportion between said rolls *Art. 740.*

Every valuation roll comes into force after the thirty days fixed for its examination and remains in force until the next roll. *Art. 742.*

In making the valuation roll, valuator must also act in view of the voters' list.

### AUGUST.

**BUILDING FUND.**—Every local municipality pays to the Collector of Inland Revenue, on the first judicial day in the month of July in each year, its yearly contribution to the building and Jury fund.

**JURY LIST.**—By *R. S. Q., arts. 2622* and following, the Secretary-Treasurer is bound, during the month following the adoption of the valuation roll, to draw up and deliver free of charge to the sheriff an extract of the valuation roll, containing the names of all persons who may act as grand and petit juries.

By *Art. 2623* he is also bound, during the month following the examination of the roll, to cause to be delivered to the sheriff a supplementary list containing the names of persons who since the transmitting of the last extract or the previous supplementary list have died, or ceased to be qualified to act as juries.

By *art. 2630*, the municipal Council must examine and approve said extract previous to its delivery by the Secretary to the sheriff.

This disposition affects only the municipalities situated within thirty miles from the seat of the district Court. *R. S. Q. art. 2618.*

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**GRAND JURIES.**—In towns or cities of a population of at least 20,000 souls, a person, to be a grand jury must own real estate to the value of over three hundred dollars, or be a tenant of immoveable property of an annual value of more than three hundred dollars. In the Counties of Gaspé and Bonaventure, to be a grand jury, a person must be a proprietor to the value of one thousand dollars or a tenant for 1000 dollars. In the other parts of the province and within a radius of thirty miles from the seat of the Court, a person must be proprietor of real estate to the value of more than two thousand dollars or a tenant of immoveable property of an annual value of one hundred and fifty dollars. *R. S. Q., art. 2619.*

**PETIT JURORS.**—1. Every male person, domiciled in a town or city, containing at least twenty thousand inhabitants, or in the *banlieue* thereof, who is entered upon the valuation roll as proprietor of immoveable property of a total value of at least twelve hundred dollars, but not more than three thousand dollars, or as occupant or tenant of immoveable property of an annual value of at least one hundred dollars but not more than three hundred dollars;

2. Every male person, domiciled within the limits of any municipality, in the counties of Gaspé and Bonaventure, and entered on the valuation roll as proprietor of a total value of at least four hundred dollars and not more than one thousand dollars, or occupant or tenant for an annual value of at least forty dollars and not more than one hundred dollars;

3. In all other parts of the Province, every male person, domiciled within the limits of any municipality, whereof any part is situated within thirty miles of the place of holding the court in the district in which he resides, who is entered upon the valuation roll as proprietor of immoveable property of a total value of at least one thousand dollars, but not more than two thousand dollars, or as occupant or tenant of immoveable property of an annual value of at least eighty dollars, but not more than one hundred and fifty dollars

**SEPTEMBER.**

The County Council must, during the month of September, in the year wherein the new valuation rolls are made, examine all the valuation rolls made in the local municipalities of the County, which have been forwarded to his office, and fix a proportion between all those rolls. *art. 740.*

Said rolls serve only for county purposes.

The local council shall in the months of September and October in any year in which a new valuation roll is not made, revise and amend the valuation roll in force, for local purposes only, in the judicial districts of Gaspé, Rimouski, Kamouraska, Montmagny, Chicoutimi and Saguenay. *art. 746.*

**OCTOBER.**

Between the first and the fifteenth of October the road inspectors must each in his respective division go over and inspect the public roads and works completed and in completion and make a report of his inspection, in writing to the council. *art. 404.*

It is the duty of the Secretary Treasurer of every local council, to make a general collection roll each year during the month of October. *art. 954.*

Work of repairs on by-roads, are publicly given out to the lowest tenderer during the month of October for the period included between the 1st day of November and the thirty first day of April next inclusively, and in the month of April for the period included between the first day of May and the thirty first day of October inclusively.

The council may by resolution order that such work shall be given out for the whole year. *art. 828.*

**NOVEMBER.**

**ARREARS OF TAXES.**—The Secretary Treasurer must prepare in the course of the month of November in each year, a statement showing the names of all per-

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sons indebted towards the corporation or its officers for municipal or school taxes. *art. 371.*

Such statement must be submitted to the council and approved of by it. *art. 372.*

No person is bound to perform work upon any municipal water course between the first day of November and the thirty first day of the next month of May. *art. 877.*

### DECEMBER.

The Secretary Treasurer, if he receives an order to that effect from the council, must before the twentieth day of December in each year transmit to the office of the County Council a statement of the arrears of taxes due to the corporation. *art. 373.*

**CLEARANCES.** He who requires a clearance from his neighbour, must prove that he has served unto said neighbour a special notice to that effect before the first day of the month of December. *art. 417.*

He who requires a new fence must give notice to that effect before the first day of December. *art. 426.*

Along the public roads all fences must be kept levelled down to within 24 inches of the ground from the first day of December to the first day of April next. *art. 836.*

**WINTER ROADS** are laid out before the first of December in each year by the road inspectors. *art. 832.*

**COUNCILLORS.** The councillors mentioned in paragraphs 1 and 2 of article 279 must be selected by lot in the month of December preceding the month of January in which they must be replaced. *art. 280.*

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### OATH.

Any oath required by the provisions of this code may be given before any Warden, Mayor, Secretary Treasurer or Justice of the peace within their respective territorial jurisdiction. *art. 6.*

The oath may also be given before a councillor according to *art. 98.*



## FINES.

Imposed upon the following persons for their refusal to accept the office they have been appointed to.

I.—WARDEN; the sum of forty dollars. *art.* 254.

II.—MAYOR; the sum of forty dollars. *art.* 334.

III.—COUNCILLORS; the sum of twenty dollars. *art.* 117.

IV.—ROADS INSPECTOR; the sum of one to twelve dollars. *art.* 381.

V.—RURAL INSPECTOR; the sum of one to twelve dollars. *art.* 381, *see art.* 407.

## OTHER FINES

VI.—Person neglecting to give the required notice for the election of councillors, the sum of five to twenty dollars. *art.* 295.

VII.—Person who votes illegally at an election, the sum of twenty dollars. *art.* 316.

VIII.—President of election refusing to cast his vote in case of equal division of votes, the sum of fifty to twenty dollars. *art.* 321.

IX.—Whoever causes any obstruction or nuisance on any road, sidewalk or bridge, the sum of two to ten dollars. *art.* 391.

X.—Whoever deposits filth, dead animal, etc., upon the land of another person, or into a water course, the sum of two to ten dollars. *art.* 416.

XI.—Whoever refuses to obey the orders of the rural inspector relative to works ordered, the sum of two dollars per acre. *art.* 418.

XII.—Whoever refuses to comply with the orders of the rural inspector, to clean his ditches, the sum of one dollar per acre. *art.* 423.

XIII.—Whoever obstructs a boundary ditch, one dollar per day. *art.* 424.

XIV.—Pound-keepers refusing to provide animals

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under their charge with the necessary food, one dollar per day. *art.* 429.

XV.—Pound keepers for refusing to notify the owner of the impounded animal, the sum of two to ten dollars. *art.* 430.

XVI.—Whoever takes and conveys away any animal impounded without permission from the pound keeper, a penalty equal to the sum claimed on account of such animal and in addition a fine of two dollars. *art.* 439.

XVII.—Justice of the peace refusing to do any duty imposed upon him by the Municipal Code, a sum of two to twenty dollars. *art.* 9.

XVIII.—Any person wilfully tearing or defacing posted notices, a sum from one to eight dollars. *art.* 11.

XIX.—Any person summoned, a sum from four to ten dollars.

XX.—President or Secretary or municipal officer refusing to receive or give a receipt of a document deposited, a sum of twenty dollars. *art.* 103.

XXI.—Secretary refusing to give security, a sum of twenty dollars. *art.* 151.

XXII.—Secretary refusing to notify of the death or absence of his securities, a sum of one hundred dollars. *art.* 152.

XXIII.—Secretary lending corporation monies or giving receipts without receiving money from rate payers, the sum of twenty dollars. *art.* 161.

XXIV.—Secretary refusing to transmit to the provincial auditor the statement required by *art.* 168, a sum of fifty to two hundred dollars. *art.* 169.

XXV.—Any person refusing to obey the orders of a municipal officer, a sum of one to five dollars. *art.* 195.

XXVI.—Any person molesting a municipal officer in the exercise of his functions, a sum of two to ten dollars. *art.* 195.

XXVII.—Any person omitting the reading of a public notice, a sum of two to ten dollars. *art.* 234.

XXVIII.—Any person obstructing a municipal water course, a sum of one dollar per day. *art.* 879.

XXIX.—Any person refusing to answer questions made by valuers, a sum of five to eight dollars. *art.* 745.

XXX.—Any person refusing to close the roads as mentioned in *art. 748*, a sum of twenty dollars per day. *art. 749.*

XXXI.—Any person cutting a tree planted for ornament on a municipal road, a sum of two to five dollars *art. 792.*

XXXII.—A corporation refusing to keep its road in good order, a sum not exceeding twenty dollars. *art. 793.*

XXXIII.—Person displacing balizes in a road, a sum not exceeding eight dollars. *art. 834.*

XXXIV.—Any person driving a vehicle faster than a walk on any bridge, a sum of twenty dollars. *Art. 859.*

XXXV.—Every Secretary refusing to comply with articles 990 and 991, a sum not exceeding two hundred dollars. *Art. 995.*

XXXVI.—Any County Corporation refusing to keep a safe or fireproof vault, a sum of two hundred dollars. *Art. 515.*

XXXVII.—Any person selling liquor without a licence, a sum of fifty dollars. *Art. 566.*

XXXVIII.—Any person omitting the reading of a by-law, a sum of ten to twenty dollars. *Art. 693.*

XXXIX.—Any person refusing to close roads according to *art. 750*, a sum of twenty dollars per day. *Art. 750.*

XL.—Any person notified to perform works upon roads and refusing to do so, a sum of from one to four dollars per day. *Art. 791.*

XLI.—Any railroad company refusing to comply with article 22, the sum of twenty dollars per day. *Art. 22.*

Owners of animals found straying, for the first offence:

For each Stallion under one year .....	\$6.00
" " Bull, boar or ram.....	2 00
" " Gelding, colt, filly, mare, ox, cow....	0.25
" " Calf, heifer or hog ringed.....	0.25
" " Hog not ringed or goat .....	1.00
" " Sheep.....	0.10
" " Goose, duck, turkey or other poultry.	0.05

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XLII.—Railroad companies are liable to a fine of twenty dollars for refusing or neglecting to perform the works they are bound to perform. *Art. 22.*

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### PRESCRIPTIONS.

All actions, claims or demands against the Secretary-Treasurer, resulting from his administration are prescribed in five years. *Art. 170.*

The right of demanding the annulment of any by-law is prescribed by thirty days. *Art. 708.*

All arrears of municipal taxes except in the case of articles 402 and 495 are prescribed by three years. *Art. 950.*

Every suit for the purpose of recovering penalties must be begun within six months. *Art. 1045.*

The owner of a land sold for taxes has a delay of two years to reclaim the same. *Art. 1008.*

The right of appeal to the County Council upon a by-law of any Local Council can only be exercised within thirty days which follow the promulgation of the by-law. *Art. 925.*

Same delay for an appeal upon valuation roll, collection roll or a *procès-verbal*.

The right of appeal to the County Circuit Court or District Circuit Court:

10. Of any judgment rendered by a Justice of the Peace;

20. Of any decision of the County Council sitting otherwise than in appeal or by a board of delegates, is prescribed by thirty days. *Art. 1064.*

The action to annul the sale of a land made by the County Council, is prescribed by two years. *Art. 1015.*

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## LAW SUITS,

Penalties imposed by the Municipal Code or by municipal by-laws are recoverable before the Circuit Court, or the Magistrates Court, in their respective jurisdictions. *Art. 1042.*

The payment of municipal taxes may be claimed by an action in the name of the Corporation, before any Justice of the Peace, the Magistrates Court or the Circuit Court. *Art. 951.*

## RIGHT OF APPEAL.

An appeal lies to the Circuit Court of the County or of the District:

1o. From any judgment rendered by Justices of the Peace.

2o. From every decision given by a County Council respecting any *procès-verbal* or any apportionment.

3o. From any decision given by a Local Council respecting the valuation roll. *Art. 1061.*

The right of appeal also exists from every decision given by a board of delegates. *Art. 1062.*



Acer & DeMont  
Allan v. La Co  
Alexander v.  
Archambault v.  
do v.  
do v.  
Armstrong v. L  
Atkin v. La Cit  
Auclair v. Poiri

Bachand v. La C  
Bain v. La Cité  
Barrette v. Les C  
Baldwin v. La C  
Ball v. La Corp.  
Banque Molson v.  
Bartley v. Boon  
Barbeau v. La Co  
Bell v. La Cité d  
Béliveau v. Levas  
Beaucage v. La C  
Bernier v. La Cité  
Béliveau v. La Ci  
Belanger v.  
Beaulieu v. La Co  
Bériard v. Bourdo  
Beauchemin v. Hu

## TABLE OF CASES CITED.

### A

	PAGES.
Acer & DeMontigny.....	138
Allan v. La Corp. de Richmond.....	231
Alexander v. do.....	203
Archambault v. La Corp. de la ville des Laurentides.....	2
do v. La Cité de Montréal.....	220
do v. La Corp. de l'Assomption.....	183
Armstrong v. La Société de Construction.....	289
Atkin v. La Cité de Montréal.....	288
Auclair v. Poirier.....	76, 92, 95-97, 198

### B

Bachand v. La Corp. de St-Théodore d'Acton.....	2
Bain v. La Cité de Montréal.....	275
Barrette v. Les Commissaire d'Ecole de St-Colomban.....	101
Baldwin v. La Corp. du Canton de Brownston.....	143
Ball v. La Corp. du comté de Stanstead.....	209
Banque Molson v. La Cité de Montréal.....	34
Bartley v. Boon.....	293-316
Barbeau v. La Corp. de LaPrairie.....	247
Bell v. La Cité de Québec.....	251
Béliveau v. Levasseur.....	251
Beaucage v. La Corp. de Deschambault.....	220, 222
Bernier v. La Cité de Québec.....	220
Béliveau v. La Cité de Montréal.....	218
Belanger v. do.....	219
Beaulieu v. La Corp. de Ste-Melanie.....	203
Bériard v. Bourdon.....	105
Beauchemin v. Hus.....	98



## CAUSES CITED.

XXXI

## PAGES.

## PAGES.

83	Cité de Québec vs Hall.....	258
82	Cité de Québec & Olivier.....	176
182	Cité de Montréal & Drummond.....	139
222	do & Doolan.....	175
250	Corporation de Chambly & Lamoureux.....	271
272, 277, 286	do de St-André & La Corporation du comté d'Argenteuil.....	270
94	do du comté Yamaska & Durocher.....	231, 266
203	do do Hochelaga & Corp. St-Antoine.....	267
136	do do Missisquoi & Corp. de St-George de Clarenceville.....	270
207	do do Dorchester & Collet.....	258, 259
227	Corporation du Comté de Champlain & Levasseur.....	229
243	do de Nelson & Lemieux.....	257
95, 96	do de Ste-Anne & Reburn.....	251, 265
127	do de Berthier vs Guevremont.....	247, 255
74	do de St-Christophe d'Arthabaska & Beaudet.....	238
182	do de Grantham & Ward.....	273
266	do d'Irlande Nord & Mitchell.....	273, 302
5, 81	do de Chambly & Scheffer.....	275
294	do de Bienville & Gillespie.....	276
248	do d'Acton & Fulton.....	276
220	do de Ste-Brigitte & Murray.....	276
220	do de Sorel & Armstrong.....	233
142	do de la Pointe aux Trembles & La Corporation d'Hochelaga.....	278
229	do de l'Assomption & Baker.....	306
118	do de Waterloo & Girard.....	132, 174
94	do de St-Roch & Dion.....	166
2, 31	do de St-Gabriel vs John.....	157
81-82	do de St-Romuald & La Corporation du comté de Lévis.....	148
96	do du canton d'Irlande Sud & Le canton de Coleraine.....	144
143	do de Ste-Martine & Cantin.....	143
278	do de Grantham & Couture.....	139
292	do de Rimouski & Ringuet.....	2, 133
85	do de St-Jean & Bertrand.....	131, 186
223	do du comté d'Ottawa & Le M. O. O. R. R.....	131
206	do de St-Guillaume & La Corp. du comté de Drummond.....	128
188	do de Vendover & Simpson.....	124, 179, 268, 272
188	do de St-Joseph & La Cie de chemin de fer Québec Central.....	109
224	do de St-Alexandre v. Mailloux.....	105
222	do de Ste-Philomène & La Corporation de Saint-Isidore.....	72
219	do du comté de Pontiac & The Pontiac P. J. R. R....	68, 264, 223, 308
219	do de St-Romuald & McNaughton.....	67
220	do de Melbourne vs Morin.....	58
278		7
273		
273		
276		



	PAGES.
Corporation du comté d'Arthabaska & Patoine.....	33, 124, 180, 182, 208
do de St-Maurice & Dufresne.....	33, 181
do du Sacré-Cœur & La Corp. de Rimouski.....	28
do de Ste-Marguerite & Migneron.....	3, 5, 232
do du comté d'Arthabaska & Barlow.....	293
do do de Beauce & Corp. Linière.....	293
do do de Drummond & Corporation de Saint-Guillaume.....	311
do do de Drummond & Quesnel.....	297
do de l'Avenir & Duguay.....	213
do d'Irlande & Larochelle.....	221
do de Douglass & Maher.....	221
do de Sherbrooke & Short.....	221
do do & Dufort.....	224
do de St-Télesphore & Marleau.....	227
do de Ste-Brigitte & Murray.....	277
do de Ste-Rose & Dubois.....	236, 186
do de Ste-Geneviève & Charest.....	184
do de Verdun & Les Sœurs de la Congrégation.....	188
do de St-Jean & Le Vermont Central.....	192
do de Ste-Geneviève & Legault.....	209
do de St-Luc v. Wing.....	213
Commissaires d'Ecole d'Hochelaga & Hudon.....	198
do do de St-Roch & Séminaire de Québec.....	188
Communauté de Sœurs du St-Nom de Jésus & Corporation de Waterloo.....	189
Cie du chemin de fer des Laurentides & Corporation de St-Lin.....	128
Cie de chemin de fer des rues de Québec & La Cité de Québec.....	183
Cie de do de péage de la Pointe-Claire & Leclerc.....	6, 128
Cie de Navigation de Longueuil & La Cité de Montréal.....	149
Corriveau v. La Corp. de St-Valier.....	148
Corbeil v. Corp. de St-Jean-Baptiste.....	136
Cramp v. La Cité de Montréal.....	46, 48
Craig v. La Corp. de Leeds.....	3
Côté v. Corp. de St-Augustin.....	264
Coupal v. Corp. de St-Jacques le Mineur.....	201
Coutlée v. La Corporation du comté de Joliette.....	264

## D

Daoust v. Proulx.....	120-316
Danjou v. Marquis.....	182
Darling v. Reeves.....	295
DeBellefeuille v. La Municipalité de St-Louis du Mile-End.....	2
Delorme v. La Corp. du comté de Berthier.....	15
Deschênes v. La Corp. de Ste-Marie.....	30, 224
Desroches v. La Corp. de St-Bazile-le-Grand.....	40
Delage v. Germain.....	56

Demers v. C.  
Diotte v. L.  
Dostaler v.  
Dolbec v. P.  
Dorion v. L.  
Dupras v. L.  
Duvernay v.  
Dumaine v.  
Dubuc v. F.  
Dubois v. L.  
Dubois v. C.  
Dunning et a.

Edison v. La

Fairbairn v. D.  
Filiatrault v.  
Fiset v. Fourr.  
Foucher v. Du.  
Forest v. La C.  
do v.  
Fortin v. Tru.  
Forget v. La C.  
Fournier v. H.  
Fraser v. Buter.  
Fréchette v. L.

Gaudet v. La C.  
Gadbois v. La  
Girard v. La C.  
Giroux v. La C.  
Girard v. Rouss.  
Giguère v. La C.  
Galon v. Fairb.  
Goulet v. La C.  
Godin v. Martin.  
Gould v. La C.  
Goupille v. La C.  
Grantham v. C.  
Graham v. Mori.  
Gratton v. La C.  
Grenier v. La C.

## CAUSES CITED.

XXXIII

## PAGES.

0, 182, 208  
 .. 33, 181  
 .... 28  
 3, 5, 232  
 .... 293  
 .... 293  
 .. 311  
 .... 297  
 .... 213  
 .... 221  
 .... 221  
 .... 221  
 .... 224  
 .... 227  
 .... 277  
 236, 186  
 .... 184  
 .... 188  
 .... 192  
 .... 209  
 .... 213  
 .... 198  
 .... 188  
 189  
 128  
 183  
 6, 128  
 149  
 148  
 136  
 16, 48  
 3  
 264  
 201  
 264  
 -316  
 182  
 295  
 2  
 15  
 224  
 40  
 56

## PAGES.

Demers v. Germain .....	251
Diotte v. La Cité de Montréal.....	219
Dostaler v. Couture .....	76, 92
Dolbec v. Portelance.....	83
Dorion v. La Corp. de St-Joseph.....	258
Dupras v. La Corp. du village d'Hochelaga.....	3, 258
Duvernay v. La Corp. de St-Barthélemy .....	3
Dumaine v. La Cité de Montréal.....	47
Dubuc v. Fortin.....	89
Dubois v. La Corp. d'Acton .....	130, 275
Dubois v. Corporation de Ste-Croix.....	207-222
Dunning et al. v. Girouard.....	248

## E

Edison v. La Corp. de Hatley.....	152
-----------------------------------	-----

## F

Fairbain v. Dechéne.....	200
Filiatrault v. Methot.....	7
Fiset v. Fournier .....	96
Foucher v. Dumoulin .....	45
Forest v. La Corp. de l'Epiphanie.....	201
do v. do de St-Paul l'Ermite.....	202
Fortin v. Truchon.....	205
Forget v. La Cité de Montréal.....	223
Fournier v. Hall.....	250
Fraser v. Buteau.....	94
Fréchette v. La Cie Man. de St-Hyacinthe .....	249

## G

Gaudet v. La Corp. de Chester Ouest.....	215, 219
Gadbois v. La Cité de Montreal .....	223
Girard v. La Corp. du comté d'Arthabaska.....	34, 184
Giroux v. La Corp. de St-Jean Chrysostome .....	306
Girard v. Rousseau .....	74
Giguère v. La Corp. de Chertsey .....	145-218
Glalon v. Fairbairn.....	203
Goulet v. La Corp. de Ste-Marthe .....	131, 207, 214, 244
Godin v. Martin.....	215
Gould v. La Cité de Montréal .....	223
Goupille v. La Corp. de Chester.....	236
Grantham v. Couture.....	2
Graham v. Morissette.....	303
Gratton v. La Corp. de Ste-Scholastique .....	192-199
Grenier v. La Cité de Montréal .....	219, 222

	PAGES.
Green v. La Cité de Montréal .....	277
Guy v. do do .....	139
Guenette v. La Cité de Montréal.....	176
Guillaume v. La Cité de Montréal.....	219

## H

Hall v. La Corp. de Lévis .....	258
Haight v. La Cité de Montréal .....	189
Hart v. Corporation de Missisquoi.....	316
Henderson v. Loranger .....	74
Hébert v. Fréchet .....	95
Hogan & La Cité de Montréal .....	188-272
Holton v. Hatkins.....	7, 231
Hough v. Le Canton d'Irlande .....	226
Holton v. Callaghan.....	231-258
Houle v. Martin .....	303
Huneau v. Magnan.....	85, 87
Huot v. Corp. du comté de Montmorency.....	207
Hunter v. La Cité de Montréal.....	224

## I

Irving v. La ville d'Iberville .....	172
--------------------------------------	-----

## J

Jean v. Gauthier .....	249
Jodoin v. Archambault .....	200
do v. La Cité de Montréal .....	220
Jones v. Dubrâle .....	202
Judah v. La Cité de Montréal .....	257

## K

Kelly v. La Cité de Québec .....	220, 2 21
Kimball v. La Cité de Montréal .....	224

## L

Lachapelle v. Lanctôt .....	74
Laraway v. Brimmer.....	82
Lacerte v. Dufresne .....	93, 311
Lawford v. Robertson.....	93
Lavoie v. Hamelin.....	94
Lambert v. Lapalisse.....	108, 302
Lacosse v. Delorme.....	117, 120

Lahaie v. M.....
Laurent v. L.....
Laferté v. L.....
Laviolette v.....
Larivière v.....
Laurin v. La.....
Laforce v. L.....
Lami v. Rabo.....
Laviolette v.....
Larocque v. L.....
Leclerc v. La.....
Leduc v. La C.....
Legault v. La.....
Legault v. La.....
Lemire v. Co.....
Lequin v. Me.....
Le Procureur.....
Leduc v. Vign.....
Leclerc v. La.....
Lemieux v. C.....
Lemesurier v.....
Lemoine v. D.....
Lizotte v. Lav.....
Liste électoral.....
Loiseau v. La.....
Lulham v. La.....

McGuire v. Do.....
Martin v. La C.....
Morier v. Rasc.....
Martin v. La C.....
Massue v. Nade.....
Marquis v. Cou.....
Martin v. La C.....
Masson v. Leah.....
Maney v. Sexto.....
Mallette v. La.....
Mackay v. La C.....
Massue v. La C.....
Mathew v. La C.....
Melançon v. Sy.....
McLaren v. La.....
McBean v. Gos.....
McEvilla v. La.....
McFarlane v. L.....
Morrisson v. La.....
Molson v.....
Morgan et al. v.....

## CAUSES CITED.

XXXV

## PAGES.

..... 277  
 ..... 139  
 ..... 176  
 ..... 219

..... 258  
 ..... 189  
 ..... 316  
 ..... 74  
 ..... 95  
 ..... 188-272  
 ..... 7, 231  
 ..... 226  
 ..... 231-258  
 ..... 303  
 ..... 85, 87  
 ..... 207  
 ..... 224

..... 172

..... 249  
 ..... 200  
 ..... 220  
 ..... 202  
 ..... 257

20, 2 21  
 224

74  
 82  
 3, 311  
 93  
 94  
 8, 302  
 7, 120

	PAGES.
Labaie v. McMartin.....	118
Laurent v. La Corp. du village St-Jean-Baptiste .....	33
Laferté v. La Corp. de St-Aimé .....	34
Laviolette v. Thomas .....	175
Larivière v. Arsenault .....	204
Laurin v. La Corp. du Sault-aux-Récollets.....	218
Laforce v. La ville de Sorel .....	224
Lami v. Rabouin.....	223, 226, 230, 303
Laviolette v. La Corp. de Napierville.....	252
Larocque v. La Corp. du comté de Shefford .....	310
Leclerc v. La Corp. de St-Jean-Port-Joly.....	307, 202
Leduc v. La Cité de Montréal.....	122, 221
Legault v. La Corp. de la Pointe-Claire.....	209
Legault v. La Corp. du comté de Jacques Cartier .....	183
Lemire v. Courchéne .....	98-232
Lequin v. Meigs .....	163
Le Procureur-Général v. La Corp. d'Iberville.....	116
Leduc v. Vigneau .....	114
Leclerc v. La Corp. de St-Joachim .....	55
Lemieux v. Cantin.....	40
Lemesurier v. Township de Ouest Chester.....	31
Lemoine v. Doré.....	24
Lizotte v. Laviolette .....	82, 90
Liste électorale du comté de Kamouraska .....	198
Loiseau v. Lacaille .....	74
Lulham v. La Cité de Montréal.....	219

## M

McGuire v. Donovan .....	250
Martin v. La Cité de Hull.....	2
Morier v. Rasconi.....	43, 77, 81, 89
Martin v. La Corp. du comté d'Argenteuil.....	46
Massue v. Nadeau .....	46
Marquis v. Couillard .....	78, 84, 94
Martin v. La Cité de Montréal.....	83
Masson v. Leahey.....	88
Maney v. Sexton .....	136
Mallette v. La Cité de Montréal .....	136
Mackay v. La Cité de Montréal.....	175
Massue v. La Corp. de St-Aimé.....	259
Mathew v. La Cité de Montréal.....	278
Melançon v. Sylvestre .....	82
McLaren v. La Corp. de Buckingham.....	34
McBean v. Gosselin .....	166
McEvilla v. La Corp. du comté de Bagot .....	207, 208
McFarlane v. La Corp. de St-Césaire.....	283
Morrisson v. La Cité de Montréal.....	219
Molson v. do .....	182
Morgan et al. v. Coté .....	190-198

	PAGES
Morin v. La Corp. du canton de Garthley.....	182
Morrisette v. La Corp. du village de Bienville.....	38
Monbleau v. La ville de St-Jean.....	40
Mongeau v. La paroisse de St-Bruno.....	203
Montreal Cotton Co. v. La ville de Salaberry.....	280
Motz v. Holiwell.....	146
Municipalité du Canton de Cleveland & Municipalité de Melbourne.....	130
Mullins v. La Cité de Québec.....	225
Mygneraud v. Legaré.....	139, 204
Morin v. Gagnon.....	55

## N

Neil v. Noonan.....	9
New Rockland Slate Co. v. Corp. of Melbourne.....	184
Noël v. La Cité de Montréal.....	55
Normandin v. Berthiaume.....	200

## O

O'Shaughnessey v. La Corporation de Ste-Clothilde de Horton.....	65, 226, 227, 231
--	-------------------

## P

Pacaud v. La Corp. d'Halifax Sud.....	132
Papin v. La Cité de Montréal.....	136
Paquet v. La Corp. de St-Lambert.....	150
Parent v. La Corp. de St-Laurent.....	5
do v. Patry.....	93
do v. Corp. de St-Henri.....	145
do v. Corp. de St-Sauveur.....	177, 182, 185
Paré v. La Corp. de St-Clément.....	218
Paris v. Couture.....	33, 39, 58, 90, 92
Parsons v. La ville de Sorel.....	188
Pattison v. La Corp. de Bryson.....	39
Patton v. La Corp. d'Acton.....	101
Perrault v. La Corp. du St-Esprit.....	218
Pigeon v. La Cité de Montréal.....	167
Plante v. Rivard.....	125
Poudrier v. Dufresne.....	93
Préfontaine v. La Corp. du comté de Chambly.....	139, 256
Proulx v. Tremblay.....	248

## R

Ramagé v. Lenoir.....	83
Regina v. La Corp. de St-Sauveur.....	145, 146, 235
Richer v. La Cité de Montréal.....	158

Riopel v. La	
do v. La	
Rioux v. La C	
Rivet v. la C	
Roberge v. L	
Robertson v.	
Robert v. Dou	
Rock v La Co	
Rolf & al. v. I	
Ross v. La Co	
Rousseau v. L	
Roy v. La Cor	

Samson v. La C	
Sauvé v. Boile	
Sauvé v. La Co	
Savaria v. La C	
Séminaire de St	
Seigny v. Dou	
Sherbrooke Tele	
Simard v. La Co	
Simpson v. La C	
Sirois v. Guimo	
Suitor v. La Co	
Surprenant v. T	
St. George v. G	
St. James v. La	
Stephens v. Hur	
Starnes v. Molso	
Stein v. Seath ..	

Tessier v. Meunier	
Thérien v. Corp. d	
Théoret v. Senéca	
Tremblay v. Roy	
do v. Lebl	
Trepannier v. Clo	
Turgeon v. Moreau	
Turgeon v. La Cit	

Vanasse v. La Cité	
Vannier v. Meunier	
Venner v. Archer ..	

## CAUSES CITED.

X XXVII

## PAGES

182	Riopel v. La Corp. du comté de l'Assomption.....	PAGES.	265
38	do v. La Cité de Montréal.....		219
40	Rioux v. La Corp. du comté de Rimouski.....	266, 273	184
203	Rivet v. la Cité de Montréal.....	269, 273	203
280	Roberge v. La Corp. de Lévis.....		302
146	Robertson v. La Corp. de St-Vincent-de-Paul.....		232
Mel-	Robert v. Doutre.....		33, 98, 193
130	Rock v. La Corp. de St-Valentin.....		108
225	Rolf & al. v. La Corp. du canton de Stoke.....		176
139, 204	Ross v. La Corp. de Ste Clotilde.....		2
55	Rousseau v. La Corp. de Lévis.....		
	Roy v. La Corp. de Ste Cunégonde.....		

## S

9	Samson v. La Corp. du comté d'Arthabaska.....	2
184	Sauvé v. Boileau.....	83
55	Sauvé v. La Corp. du comté d'Argenteuil.....	316
200	Savaria v. La Corp. de la paroisse de Varennes.....	36
	Séminaire de St-Sulpice v. La Cité de Montréal.....	188
	Sevigny v. Doucet.....	247
for-	Sherbrooke Telephone Co. v. La ville de Sherbrooke.....	204
3, 227, 231	Simard v. La Corp. du comté de Montmorency.....	33, 270
	Simpson v. La Corp. de Ste-Malachie d'Orstown.....	34
	Sirois v. Guimond.....	25
	Suitor v. La Corp. de Nelson.....	232
132	Surprenant v. Tremblay.....	97
136	St. George v. Gadoury.....	84
150	St. James v. La Corp. de St-Gabriel.....	256
5	Stephens v. Hurteau.....	57
93	Starnes v. Molson.....	248
145	Stein v. Seath.....	248
182, 185		
218		
3, 90, 92		
188		

## T

39	Tessier v. Meunier.....	61
101	Thérien v. Corp. de Mascouche.....	181
218	Théoret v. Senécal.....	201
167	Tremblay v. Roy.....	94, 96
125	do v. Leblanc.....	233
93	Trepannier v. Cloutier.....	79
39, 256	Turgeon v. Moreau.....	89
248	Turgeon v. La Cité de Montréal.....	221

## V

83	Vanasse v. La Cité de Montréal.....	222
6, 235	Vannier v. Meunier.....	42
158	Venner v. Archer.....	83

	PAGES.
Viau v. La Cité de Montréal .....	222
Viau v. La Corp. de la Longue-Pointe .....	308
Ville de Lachute v. Burroughs .....	58
Ville d'Iberville v. Jones .....	139
Ville de Longueuil v. La Cie de Navigation de Longueuil.....	186

## W

Whitman v. Township of Stanbridge.....	213
Wilson v. La Cité de Montréal .....	277
Woodward v. La Corp. de Richmond .....	316
Wurtele v. La Corp. de Grantham.....	288

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## EXTENT

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PAGES.	
.....	222
.....	308
.....	58
.....	139
il.....	186

.....	213
.....	277
.....	316
.....	288

# MUNICIPAL CODE

## OF THE

# PROVINCE OF QUEBEC <sup>(1)</sup>

### PRELIMINARY TITLE.

#### EXTENT OF THE MUNICIPAL CODE: DECLARATORY AND INTERPRETATIVE PROVISIONS.

**1.** The Municipal Code applies to all the territory of the Province of Quebec, excepting the cities and towns incorporated by special statutes.

**2.** The territory subject to the provisions of the Municipal Code is divided into county municipalities.—County municipalities include country, village or town municipalities.

**3.** The inhabitants and the rate payers of every county, country, village, and town municipality form a corporation or body politic, known, as the case may be, as "The Corporation of or of the (*inserting here the name of the municipality as given in the first title of the first book of this code, without the words "municipality of or of the."*)

**4.** Every such corporation, under its corporate name, has perpetual succession, and may:—1. Acquire real and personal property by purchase, donation, devise, or otherwise, and hold and enjoy or alienate the same:—

(1) Art. 34 V., c. 68, assented to on the 24th December 1870 was just into force the 2nd November 1871 by proclamation dated on the 26 September 1871.

2. Enter into contracts, transact, bind and oblige itself and others to itself within the limits of its functions; (1)
3. Sue and be sued in any cause and before any court;

(1) *Jugé*: Que les corporations municipales n'ont que les pouvoirs qui leur sont spécialement octroyés ou ceux qui leur sont nécessaires pour mettre à effet les pouvoirs qui leur sont expressément donnés.

Que les corporations municipales peuvent être obligées par quasi-contrats comme les personnes ordinaires et dans l'espèce être tenues de payer pour des services rendus par des avocats, pour obtenir l'in-Mile-End. 25, L. C. J., 18 et 4, L. N. 52.

*Jugé*: Que les corporations municipales n'ont pas le pouvoir d'accepter des lettres de change ou de faire des billets promissoires négociables. *Martin vs. la cité de Hull* 10 R. L. 342.

*Jugé* le contraire dans la cause de la corporation du canton de Grantham, et *Outare et al.* 10 R. L. 186 et 24 L. C. J., 105.

*Jugé*: Qu'une action pour libelle peut être intentée contre une corporation municipale. Que par l'article 356 C. C. les corporations politiques sont régies par le droit civil dans leurs rapports avec les citoyens. *Brown vs. la Corporation de Montréal.* R. C. 475, et 17 L. C. J. 46.

*Jugé*: Que les corporations municipales peuvent transiger sur toutes réclamations en dommages ou autres portées contre elles. Qu'elles sont liées par telles transactions et ne peuvent en être relevées que pour les mêmes raisons que peut invoquer un majeur en possession de l'indivisibilité de ses droits. *Bachand vs. la Corporation de St-Théodore d'Acton* 2 R. L. p. 326.

*Jugé*: Qu'une corporation municipale est responsable du coût des dépenses faites pour obtenir son incorporation (*Archambault vs. la Corporation de la ville des Laurentides*, 19 R. L. p. 266).

*Held*: A county council has no power to pledge county funds to the payment of costs to be incurred by private prosecutors seeking to enforce the Scott or Temperance Act.

*Samson vs. la Corporation du comté d'Arthabaska*, 14 Q. L. R. 140.

*Jugé*: 1° Que la Corporation de Ste-Cunégonde, autorisée à acheter l'aqueduc de Ste-Cunégonde et St-Henri pour une somme de \$400,000, par un statut passé alors que l'un des deux propriétaires de l'aqueduc était interdit pour démence, ne pouvait acquérir la part de l'interdit que judiciairement; en conséquence, elle pouvait acquérir privément l'autre moitié à un prix n'excédant pas la moitié de \$400,000, sauf à acquérir l'autre moitié lorsqu'elle sera vendue judiciairement, soit à la poursuite des créanciers de l'interdit ou sur licitation provoquée par l'un des co-propriétaires.

2° Qu'il doit être laissé au conseil de ville une discrétion raisonnable dans une transaction de ce genre et que la cour n'interviendra pas pour l'empêcher d'acquérir la moitié de l'aqueduc, lorsqu'il prétend que c'est le seul mode pratique d'arriver à l'acquisition du tout, et qu'il est constant qu'il est de l'intérêt de la ville d'acquérir l'aqueduc. (*Roy vs. la corporation de la ville de Ste-Cunégonde*, et *Berger* mis en c. 5. M. L. R. 361.)

—4. Exercise which are duties imposed however they may be performed.

5. By-laws appertaining to the courses, regulations, and municipal divisions of the town, amended or altered, save in special cases, subject to the approval of those thereat, within three months running from the force of the by-law.

6. Any person who may be made treasurer or collector of territorial jurisdiction, or who is called upon to deliver a certificate of the same, without

(1) *Held*: that the public fulfilling public duties.

*Blain vs. Corporation*

*Held*: 1. That under the name of an absolute is an absolute cannot cover by be dismissed, but exist.—Corporation

The error in the title does not nullify the Parent vs. Corporation

*Jugé*: Que l'interdit, lorsqu'il plaide de St-Barthélemy

*Jugé*: Qu'une action en dommages-intérêts dans l'acquisition d'un village d'Hochelaga, 182; 2 Q. L. R.

*Jugé*: Contra,

—4. Exercise all the powers in general vested in it or which are necessary for the accomplishment of the duties imposed upon it;—5. Have a seal, of which however the use is not obligatory. (*R. S. Q. art. 6025.*) (1)

5. By-laws, resolutions, *procès-verbaux* or acts of apportionment of municipal roads, bridges or water-courses, rolls, lists, and generally all orders, respecting municipal matters in force at the time of the promulgation of this code, remain in force within the territorial divisions for which they were made, until repealed, amended or annulled under the authority of this code, save in special cases otherwise provided for.—They are subject to the application of articles 100, 461, 698, and those thereunto following; but the prescription of three months runs only from the date of the coming into force of this code.

6. Any oath required by the provisions of this code may be made before any warden, mayor, secretary-treasurer or justice of the peace, within the respective territorial jurisdictions.—Any person before whom any oath may be made is empowered and required, whenever he is called upon to do so, to administer the oath and deliver a certificate thereof to the party taking the same, without fee.

(1) Held: that a municipal corporation is not an officer or person fulfilling public duties or functions in the sense of art. 22, C. O. P. *Blain vs. Corporation of Granby* 5 R. L. 180.

Held: 1. That a municipal corporation can plead in court only under the name given by law; 2. That to sue under another name is an absolute nullity founded on public interest, which parties cannot cover by refusing to invoke it; 3. That such an action must be dismissed, but without costs, as the party that fails does not exist.—*Corporation of Ste-Marguerite vs. Migneron*, 29 L. C. J. 227.

The error in the designation of the name of a municipal corporation does not nullify the proceedings taken by such corporation.—*Parent vs. Corporation of St-Sauveur*, 2 Q. L. R. 258.

Jugé: Que l'avocat n'est pas tenu de produire son mandat, même lorsqu'il plaide pour une corporation. *Duvernay vs. la Corporation de St-Barthélemy*. 1. R. L. 714.

Jugé: Qu'une corporation municipale n'a pas droit à l'avis mentionné dans l'art. 22 C. P. C.—*Dupras et al vs. La Corporation du village d'Hochelaga*. 12 R. L. p. 35—et 5 R. L. p. 180; 18 L. C. J. p. 182; 2 Q. L. R. p. 305; 17 L. C. J. p. 193;

Jugé: *Contra*, *Graig vs. la Corporation de Leeds* 2. R. L. 110.

**7.** In any proceeding in which the rights of any municipal corporation are involved, no witness is inadmissible from the fact of his being an elector or a rate-payer of the municipality, or from his forming part of the municipal council.

**8.** Whenever any deposition or information is required to be given under oath, on behalf of any municipal corporation, such deposition or information may be given by any member or officer of the council.

**9.** Every justice of the peace and every person who refuses or neglects, without reasonable cause, to do any act or duty imposed upon him by the provisions of this code, or required of him in virtue of its provisions, incurs, over and above the damages caused, a penalty of not less than four nor more than twenty dollars, except in cases otherwise provided for.

**10.** The lieutenant-governor, by an order in council, may revoke any order in council made by him in municipal matters, either before or after the coming into force of this code.

**11.** Every person, who wilfully tears down, injures or defaces any document whatsoever posted up in any public place, under the authority of the provisions of this code, incurs a penalty of not less than one nor more than eight dollars for every offence.

**12.** Whenever, according to the provisions of this code or of municipal by-laws, it is declared that any person must sign his name to any document whatsoever, such person, if he is unable to write or sign his name, must affix his mark to such document, in the presence of a witness who signs.—This article does not apply to the head of the council, nor to municipal officers who, according to the provisions of this Code, must be able to read and write.

**13.** The forms contained in the appendix to this code suffice in the cases for which they are given. Any other form, to the like effect, may also be employed.

**14.** Unnecessary allegations or expressions, used in any form or in any act whatsoever, in no manner affect the validity thereof, provided that, on their being set

aside as understood

**15.** No formed by other persons or insufficient of the municipality insufficient of the quality surprise or

**16.** No omission of to prevail municipal done by rejected omitted be provisions of other municipal

**17.** In a provisions of filling any write, it is to read print

**18.** If in laws existing difference between version shall provisions of difference in version shall

(1) Held that —Parent vs. L. R., 258.

Held that art. not to absolute pleading within sue under the incorporation of Ste-

Held that the or nullity are by exact them according to leau vs. Proulx,

aside as surplusage, what is left is capable of being understood in the sense intended.

**15.** No act connected with municipal affairs, performed by a municipal council, its officers, -- any other person, is null or void solely on account of error or insufficiency in the designation of the corporation or of the municipality or of such act, or on account of insufficiency in or the omission of the declaration of the quality of such officers or person, provided no surprise or injustice result therefrom.

**16.** No objection founded upon form, or upon the omission of any formality even imperative, can be allowed to prevail in any action, suit or proceeding respecting municipal matters, unless substantial injustice would be done by rejecting such objection, or unless the formality omitted be such that its omission, according to the provisions of this code, would render null the proceedings or other municipal acts needing such formality. (1)

**17.** In all cases in which it is declared by the provisions of this code that any person, to be capable of filling any municipal office, must know how to read and write, it is not sufficient that such person be only able to read print and to write or sign his name.

**18.** If in any article of this code, founded on the laws existing at the time of its promulgation, there is a difference between the French and English texts, that version shall prevail which is most consistent with the provisions of the existing laws.—If there be any such difference in an article modifying the existing laws, that version shall prevail, which, according to the ordinary

(1) *Held* that art. 16 M. C., should be interpreted in a wide sense.—*Parent vs. La Corporation de la paroisse de St Laurent*, 2 Q. L. R., 258.

*Held* that art. 119, C. U. P. applies only to relative nullities and not to absolute nullities, and that, consequently, the fact of not pleading within the delays that the corporation plaintiff does not sue under the name given by law, does not cover this nullity.—*Corporation of Ste-Marguerite vs. Mignerou*, 29 L. C. J. 227.

*Held* that the formalities prescribed by the Code not under pain or nullity are by art. 16 left to the discretion of the judge, who may exact them according as there is injustice or not to a party.—*Boileau vs. Proulx*, 2, R.O. 236

rules of legal interpretation, is most consistent with the intention of the article.

**19.** The following expressions, terms and words, whenever they occur in this code or in any municipal by-laws or other municipal orders, have the meaning, signification and application, respectively assigned to them in this article, unless the context of the provision declares or indicates the contrary;— 1. The word "municipality" means solely the territory erected for the purpose of municipal administration; In every municipality bounded by a navigable or floatable river, the limits of the municipality extend to the middle of such river;—2. The terms "rural municipality" or "country municipality" include and mean parish municipalities, municipalities of part of a parish, of a township, of a part of a township, of united townships, and generally every local municipality other than town or village municipalities;—3. The adjective "local," when it qualifies the words "municipality," "corporation," "council" and "councillor" refers indifferently to country, village or town council, councillors, corporations or municipalities; (1)—4 The word "parish" means any territory erected into a parish by civil authority;—5. The word "township" means any territory erected into a township by proclamation;—6. The word "district" means a judicial district established by law, and refers to the district in which the municipality is situated;—7. The word "county" means a territory erected into a county, for the purposes of representation in the Legislative Assembly of the Province; If two or more counties are united to constitute an electoral division, the word "county" means each of such counties severally;—8. The term "*chef-lieu*" ("chief place") means the locality where the county council holds its sessions;—9. The terms "Circuit Court of the county" or "county Circuit Court" mean the Circuit Court in and for the county; and if there is more than one Cir-

(1) *Held*: That under the municipal Code, Art. 19 § 3 local municipalities include village municipalities. *La Cie. de Chemin de Péage de la Pointe Claire* 1. M.L.R. (Q. B.) 296.

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out Court in the county they include all that are therein established ;— 10. The terms "magistrate's court" or "magistrate's court of the county," mean the magistrate's court established in the county by proclamation of the lieutenant governor and presided over by the district magistrate ;— 11. The words "head of the council" apply equally to the warden of a county and to the mayor of a local municipality. The terms "head of a corporation" or "head of a municipality" are also used ;—The person referred to by the word "head" perform his duties under the name peculiar to his office, either as mayor or as warden ;—12. The term "member of the council" means the head of the council or any councillor of the municipality ;—13. The term "justice of the peace" refers also to the head of the council acting *ex-officio* as justice of the peace, under article 125 ;— 14. The word "session," employed alone, refers indifferently to an ordinary, or general session and a special session ;— 15. The term "municipal office" includes all the duties or functions discharged either by the members or officers of a municipal council ;— (1) 16. The word "appointment" means and includes every election made by the municipal electors and every appointment made by the lieutenant-governor or by the municipal council whenever, by the terms of the context, it does not refer specially to one of these cases ;— This provision applies to the term "appoint" and its derivatives ;— 17. The term "taxable property" means and includes only the real property subject to municipal taxation, and the personal property declared taxable by article 710 ;— 18. The word "owner"

(1) *Jugé* : Qu'un journalier travaillant à un ouvrage municipal tel qu'un chemin, n'est pas pour cela, un officier public ayant droit à un mois d'avis avant d'être poursuivi en dommage, en raison de la part qu'il peut avoir prise à cet ouvrage. *Holton vs. Atkins*, 3 Q. L. R. 289.

*Jugé* : Qu'un conseiller municipal poursuivi en dommages, parce qu'il aurait, agissant comme membre du Comité des trottoirs, et sur l'autorisation du Conseil, mais sans droit, fait construire un trottoir sur la propriété du demandeur qui s'y opposait, et aurait fait commettre un assaut sur la personne de ce dernier par les hommes employés à la confection de ce trottoir, a droit à l'avis d'un mois requis par le Code de Procédure Civile. *Filiatrault vs. Méthot*, 18 R. L. 525.



or "proprietor" means every one having the ownership or usufruct of taxable property or possessing or occupying the same as owner or proprietor, or occupying crown lands under a location ticket; it applies to all co-proprietors, and to every partnership, association, wooden or iron railway company, or corporation whatsoever; — 19. The word "occupant" denotes the person who occupies any immoveable under any title other than that of proprietor, tenant, or unfructuary, either in his own or his wife's name, and who dwells upon the same and derive revenue therefrom; — 19a. The word "tenant" includes also the person who is obliged to give to the proprietor any portion whatever of the fruits and revenues of the immoveable occupied by him, and such tenant shall, unless the tenant of a store, farm, shop or office, dwell upon such property; — 20. The word "absent" denotes all persons whose domicile is without the limits of the municipality, nevertheless any person corporation, iron or wooden railway company, or any other company which has any place of business whatever in the municipality, is deemed present or domiciled in such municipality; — 21. The word "rate-payer" means any proprietor, lessee, occupant or other individual, who, by reason of the taxable property which he possesses or occupies in a municipality, is liable for the payment of municipal taxes or of the construction or maintenance of municipal works by contributions in materials, labor or money; — 22. The term "municipal tax" means and includes: 1. — All taxes and contributions in money imposed by municipal councils or under *procès-verbaux* or acts of apportionment; — 2. — All taxes and contributions in material or labor imposed upon rate-payers for municipal works, under *procès-verbaux* or other municipal acts, and liquidated by a resolution of the council after special notice given to the rate-payer interested or by the judgment of any court; — 3. — All duties, fines or penalties declared in express terms "to be assimilated to municipal taxes" by the provisions of this code, by municipal laws or any other law; — 23. The word "range" refers to a succession of neighboring lots usually abutting on

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the same line ; it means also a "concession" or a "row (*côte*)" taken in the same sense;—24. The words "real estate" or "land" mean all lands or parcels of land in a municipality, possessed or occupied by one person or by several persons conjointly and include the buildings and improvements thereon;—25.—The word "lot" means any land situated in any range as conceded or sold by the original title or by the oldest title that is to be found; it includes any subdivisions of such land made since the said concession or sale, with the buildings and other improvements thereupon;—26. The term "municipal bridge" means any bridge of eight feet in span or more, under the management of a municipal corporation: It does not include the bridges mentioned in article 883; 27. The word "road" includes high-roads, streets, lanes, front roads, and local or county by-roads; (1) —28. The term "boundary fence" means "the fence dividing two public or private properties adjacent one to another";—29. The words "month" means a calendar month;—30. The expression "following day" does not mean nor include holidays, except when an act may be done upon a holiday;—31. The words "intoxicating liquors" or "strong liquors" means all spirituous or malt liquors, all wines, and every mixture of liquors or drinks, whereof any part is intoxicating;—32. The word "bond" means and includes all debentures issued by municipal corporations for the purpose of raising money;—33. The term "Municipal Code" used in any act, statute, by-law, writing, procedure, or document, whatever, is a sufficient citation and designation of the Municipal Code of the Province of Quebec;—34. If the time fixed by this code for the accomplishment of any proceeding or formality, prescribed by the provisions thereof, expires or falls upon a Sunday or legal holiday, the time so fixed shall be continued to the first day following, not a Sunday or holiday, (*R. S. Q.*, art. 6026, as amended by 52 Vict., cap. 56., s. 1).

(1) *Jugé*: Qu'un chemin qui n'est pas clos des deux côtés et qui est fermé par des barrières, n'est pas un chemin public, et que le propriétaire du terrain où passe ce chemin peut obliger le voisin à faire sa part de clôture le long de ce terrain. *Neil vs. Noonan* 19 R. L., p. 334.

**20.** Every lot or piece of land is described by its number and by the name of the range or street, or by the limits and abutments thereof, or in the manner prescribed by a resolution of the council; In every municipality included in a registration division, in which the provisions of articles 2168 or 2176a of the civil code, respecting the plan and book of reference, are in force, the description of every lot of land is given by the corresponding number upon the plan and in the book of reference; if the land forms part of a numbered parcel of land, it is described by declaring that it forms part of such parcel of land; if it is composed of portions of more than one numbered parcel of land, it is described by declaring that it is so composed, and by indicating what portions of each numbered parcel of land it contains. (*Id.* art. 6027.)

**21.** Every iron or wooden railway company is obliged to construct and maintain fences, roads, bridges, and water-courses on the properties possessed or occupied by it in a municipality, and is subject to the provisions of the by laws, *procès-verbaux* or other municipal enactments passed to that effect, even in such works for fences, roads, bridges and water-courses should not be of advantage to the company. (*Id.* art. 6028.)

**22.** Such company or its taxable property cannot in any manner be made liable, in virtue of *procès-verbaux* or of by-laws made under article 528, 794, 855 and 884, for works of such nature, or any land other than that owned or occupied by it, nor can it be subjected to the imposition or payment of taxes levied for works to municipal water-courses, bridges or roads, or to contribute to the building of any iron or wooden railway in the municipality.—Should such company neglect or refuse to perform the works for which it is liable, in virtue of the preceding article within the prescribed delay, no municipal council or officer can perform such works or cause the same to be performed; but the company is liable in addition to the damages occasioned by its neglect or refusal, to a fine of twenty dollars for each day during which such neglect or refusal continues.

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**22a.** The provision of articles 21 and 22 also apply to federal and local government railways, whether such railways be worked by the government or by private parties. (*R. S. Q.*, art. 6029.)

# BOOK FIRST.

## ORGANIZATION OF MUNICIPAL CORPORATIONS.

### TITLE I.

#### ERECTION OF MUNICIPALITIES.

##### PRELIMINARY PROVISIONS.

**23.** Every territory which is declared by the provisions of this code to form of itself a distinct county or local municipality, dates its formation as such municipality, under its corporate name, as soon as such territory comes within the required conditions. (*Id.*, art. 6030).

### CHAPTER I.

#### ERECTION OF COUNTY MUNICIPALITIES.

**24.** Saving the exceptions contained in article 1081, every territory erected into a county for the purpose of representation in the Legislative Assembly of the Province, constitutes by itself a county municipality, under the name of 'The municipality of the county of (*name of county*). A county united to another county to constitute an electoral division does not cease to form by itself a separate county municipality. (*Id.*, art. 6031).

**25.** Nevertheless if any local municipality is situated partly in one county and partly in another, such local municipality continues to form part of the county municipality in which it was placed under the law which established it.

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## CHAPTER II.

## ERECTION OF LOCAL MUNICIPALITIES.

## SECTION I.

## RURAL MUNICIPALITIES.

**26.** Every territory which at the time when this code comes into force, has been erected in virtue of the consolidated municipal act of Lower Canada, or of any amendment, or subsequent special act, into a municipality or a parish, of part of a parish, of a township, of part of a township, of united townships, or into any country municipality whatsoever, continues to form a local municipality operating under the provisions of this code, under the name indicated by the law under which it was erected, until such time as it may be otherwise directed under the authority of this code. — Corporations or municipalities which have had rights or privileges conferred on them by special and exceptional provisions of law, continue in the enjoyment of the same except in so far as the number of councillors is concerned, which must be in accordance with article 276.

**27.** All other territories, except those already erected into town and village municipalities, form, at the time when this code comes into force, or thereafter, local municipalities, under the subsequent provisions of this section, if they fall within the requirements to this end necessary; if not, they must be annexed to adjoining municipalities in the country, in virtue of the provisions of this section.

**28.** Every territory not erected into a local municipality or every territory of which the council is not organized, is, until it be annexed to an adjoining local municipality or until the council thereof be organized, administered and regulated by the county council and its officers, under their usual names and with the same privileges, rights and obligations, as if such council and officers were the local council and officers of such terri-



tory.—The inhabitants and rate-payers of such territory so governed by the country council and its officers are alone subject to all municipal obligations, arising either from the law or from the municipal acts in force therein in the same manner as if such territory was organised into a municipal corporation.

## § I.

## OF MUNICIPALITIES OF A PARISH OR PART OF A PARISH.

**29.** Every territory erected into a parish, and situated entirely in one and the same county forms of itself a parish municipality, within its whole extent, save and except any parts thereof included in any township, or in any town or village municipality.

**30.** Whenever a territory, not forming part of a township, or of a town or village municipality, is annexed to a parish in the county by civil authority or by the legislature, such territory, without further formality, forms part of the municipality of such parish, from the date of its annexation to the parish, and is subject to articles 43 and 44.

**31.** If a part only of a parish is situated in a county, this part of a parish forms, of itself, a municipality of a parish, provided it has a population of at least three hundred souls.—If such part of a parish has not a population of three hundred souls, it must be annexed to an adjoining rural municipality in the county.

**32.** The county council may, by a resolution after public notice to that effect has been duly given, previous to the passing thereof, and approved and published in the manner prescribed by article 41, erect into a parish municipality, under the name which belongs to it, according to the rules prescribed, any territory included in one or more townships or part of townships, whether or not erected into municipalities, and which has been constituted into a civil parish, provided that such parish contains a population of three hundred souls and is wholly situated in the county.—When a part only of

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such civil parish is situated in the county, such part of a parish, if it contains a population of three hundred souls, may in the same manner be erected into a municipality of part of a parish. (1)

**33.** The county council may, in the same manner, annex to a parish municipality any territory situated in one or more townships, or parts of townships, whether erected or not erected into municipalities, whether such territory has or has not been already joined to such parish for civil purposes, provided that such territory and parish be entirely situated in the same county. (*R. S. Q. art. 6032*).

#### PARISH.

**34.** The name of a parish municipality is "The municipality of the parish of (*name of the parish*)."—The name of the municipality of part of a parish, is "The municipality of the \* \* \* part of the parish of (*naming the parish and substituting in place of \* \* \* \* the word north, south, east and west, according as such municipality is situated in one of those directions in relation to the principal part of the parish*).

(1) *Jugé* : Qu'un territoire érigé en canton, situé dans un seul comté, est, par le fait, érigé en municipalité de canton, du moment que ce canton a une population d'au moins trois cents âmes ;

Que le préfet du comté dans lequel se trouve ce canton peut valablement, sans l'autorisation du conseil de comté, ordonner la tenue de la première élection générale des conseillers municipaux pour ce canton.

Que le rapport fait par le président de l'élection au préfet du comté, que cette élection a eu lieu et qu'un contribuable a été nommé maire par les conseillers élus, est une dénonciation suffisante pour le conseil de comté que telle élection a eu lieu ;

Que le maire du conseil local ainsi élu a, par bref de mandamus, le droit de se faire reconnaître comme membre de la corporation de comté.

Qu'en vertu de l'article 32. C. M. l'érection, en municipalité de paroisse, par résolution du conseil de comté, d'un territoire comprenant une partie d'un canton déjà érigé et organisé en municipalité de canton et tout un autre canton non encore érigé en municipalité, a pour effet de briser l'organisation municipale de ce premier canton, s'il n'y reste plus 300 âmes. (*Delorme vs la Corporation du comté de Berthier. 19, R. L., p. 108.*)

## § II.

## OF MUNICIPALITIES OF A TOWNSHIP OR OF PART OF A TOWNSHIP.

**35.** Any territory erected into a township, situated entirely in one and the same county, and having a population of at least three hundred souls, as appears by the last census or otherwise, forms of itself a township municipality.—The secretary-treasurer of a municipality, so organized, shall immediately give notice of the date of such organization by publishing it in the Quebec Official Gazette.—A township with a population of less than with three hundred souls, must be annexed to an adjoining rural municipality in the county. (*R. S. Q. art. 6033.*)

**36.** Whenever any territory which does not already form part of a local municipality is annexed by proclamation to any township in the county, such territory, from the date of its annexation to the township, forms part of the municipality of such township without any other formality.

**37.** If a part only of a township is situated in a county, such part of a township, forms, of itself, a municipality of part of a township when it has a population of at least three hundred souls.—If such part of a township has not a population of at least three hundred souls, it must be annexed to an adjoining rural municipality in the county.

**37a.** The county council may, by resolution, erect into a municipality of part of a township, any territory containing a population of at least three hundred souls, which already forms part of a municipality of a township, of part of a township or of united township, or of the municipalities of several contiguous townships situated in the same county, on petition signed by at least two-thirds of the electors of such territory, and by a majority of electors of the remaining portion of the said municipality; provided that there remains in each municipality, from which such territory is detached, a population of at

least three hundred souls, as appears by the last census or otherwise, as approved by the county council, article 41. (*R. S. Q. art. 6033.*)

**38.** The name of a municipality of part of a township, North. South. East. West. A municipality of part of a township is "Municipality of part of a township" given to it by the county council.

**39.** The county council may, by resolution, unite two or more townships, or parts of townships, within the limits of the county, and that the territory amounts to at least three hundred souls. **40.** Unite two or more townships, or parts of townships, under the name of (name of the township).

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**41.** The county council, in the preceding paragraph, may, by resolution, unite two or more townships, or parts of townships, under the name of (name of the township), and that the territory amounts to at least three hundred souls, as approved by the county council, article 41. (*R. S. Q. art. 6033.*)

least three hundred souls.—Such resolution must be preceded by a public notice given for such purpose and be approved and published in the manner prescribed by article 41. (*R. S. Q. article 6034.*)

**38.** The name of a township municipality is "Municipality of the township of (*name of the township*)."—The name of a municipality of part of a township is "Municipality of the..... part of the township of (*naming the township and substituting in place of.....the word North, South, East or West, to suit the case*).—That of a municipality composed of portions of several townships is "Municipality of..... (*name which is given to it by the county council*) (*Ibid. art. 6035*).

### § III.

#### OF UNITED TOWNSHIP MUNICIPALITIES.

**39.** The county council may, by a resolution, sanctioned and published in the manner prescribed by article 41, unite two or more townships situated wholly within the limits of the county, to form conjointly one local municipality, provided that the population of each of these townships does not amount to three hundred souls, and that the total population of these townships united amounts to at least three hundred souls.

**40.** United townships form a local municipality under the name of 'Municipality of the united townships of (*name of the township*). (*R. S. Q. art. 6036.*)

### § IV.

#### ANNEXATION OF A TERRITORY TO A RURAL MUNICIPALITY.

**41.** The annexation of any territory to a rural municipality, in the cases prescribed by the provisions of the preceeding paragraphs, is made by a resolution of the county council.—This resolution must be approved by the lieutenant-governor in council, and published within the fifteen days which follow the receipt of his approval, by the secretary-treasurer, in the manner prescribed for

public notices, and moreover, by two insertions in one or more newspapers and in the Official Gazette of the province.

**42.** The territory thus annexed to the rural municipality becomes part of such municipality, for all municipal purposes. (*R. S. Q.* art. 6037.)

**43.** The members and officers of the council of the municipality, to which a territory has been annexed, in office at the time of the annexation, remain in office, and form the municipal council or are the officers of the whole municipality as constituted after the annexation.

**44.** The by laws, orders, lists, rolls or municipal acts, which governed the territory before its annexation, continue in force for such territory, subject, nevertheless, to the application of provisions of chapter three of this title, until repealed and amended by the municipal council; and those which governed the municipality before the annexation do not apply to the annexed territory until they have been declared applicable to it by the same council.—Nevertheless, the by-laws hereinbefore first mentioned, can neither be repealed nor amended, nor those hereinbefore last mentioned, declared applicable to such annexed territory, by the municipal councillors in office at the time of such annexation, so long as they do not fill their offices in virtue of a new appointment.

## § V.

### SEPARATION OF A TERRITORY ANNEXED OR UNITED TO ANOTHER.

**45.** If it appears by a general census, or special census or enumeration of the inhabitants, that the territory which has been annexed to a rural municipality, or united to another territory for the purpose of forming a united township municipality, contains a population of at least three hundred souls, the county council may, by resolution, divide such territory for the purpose of establishing within its original limits, a distinct local municipality, or municipalities, as the case may be, provided

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that the territory which remains, retains a population of at least three hundred souls.—This resolution must be approved and published in the same manner as those passed in virtue of articles 32 and 41.

**46.** The territory so separated forms of itself a distinct local municipality under its proper name, according to the rules already established. (*R. S. Q.*, art. 6038).

**47.** The county council must cause a special census of the habitants of a territory which has been annexed or united in virtue of the provisions of this chapter, to be made by one of its officers or by a person appointed for that purpose, whenever required to do so, by at least two persons resident in such territory, and who offer sufficient security for the payment of the cost in the case mentioned in the following article.

**48.** If it appears from such census that such annexed or united locality does not contain a population of three hundred souls, the costs of such census must be repaid to the council by the persons who demanded the same, or by their sureties.

**48a.** Whenever there is, within the limits of a rural municipality, a group of at least sixty houses on a territory not exceeding two hundred and fifty arpents in superficies, the council of such municipality may, upon a petition signed by two-thirds of the municipal electors who are at the same time proprietors resident in the said territory, pass a by-law to define the extent and the limits of such territory, and to cause it to be known as an unincorporated village under such name, as it may deem expedient to give it. (*R. S. Q.*, art. 6039).

**48b.** As soon as such by-law comes into force, the council of the municipality is vested with the same powers and authority to make by-laws, with regard to such unincorporated village, as that of the council of a village municipality working under the provisions of this code, except however those conferred by articles 617 to 623a and 637 to 640 inclusively. (*Id*)

## SECTION II.

## OF TOWN AND VILLAGE MUNICIPALITIES.

## § I.

## OF EXISTING TOWN AND VILLAGE MUNICIPALITIES.

**49.** Every territory erected at the time when this code comes into force, into a village municipality under the authority of any statute whatsoever, continues to form a village municipality, governed by the provisions of this code.—Such village municipalities are designated and known under their corporate name, according to the provisions of the law under which they were erected.

**50.** The town and village municipalities, specified in the two proceeding articles, are designated and known under the corporate name which belong to them, according to the provisions of the law under which they were erected.

## § II.

## ERECTION OF NEW VILLAGE MUNICIPALITIES.

**51.** Every territory forming part of a rural municipality and containing on any one of its parts at least forty inhabited houses, within a space not exceeding sixty superficial arpents, may be erected into a village municipality by a proclamation of the lieutenant-governor issued after the observance of the formalities prescribed in this paragraph.

**52.** The county council, on presentation of a petition signed by two-thirds of the municipal electors, who are at the same time proprietors resident in the territory which is sought to be erected into a village municipality, names a special superintendent charged to visit such territory for the purpose of ascertaining the number of houses therein built and inhabited, and to report on such petition. (*R. S. Q.*, art. 6040).

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oath faithfully to perform the duties of his office, gives public notice to the inhabitants of the rural municipality concerned of the day and hour at which he is to commence his visit and make the examination of the territory described in the petition.—At the time and place fixed he must give a hearing to every interested party who appears, and receive from such party any objection or opposition, whether written or verbal.

**54.** The special superintendent must set forth in his report to the council:—1. The number of houses built and inhabited on the territory in question; 2. The number of houses built and inhabited, within a space not exceeding sixty superficial arpents, on any part whatsoever of the territory;—3. A clear and precise description of the limits, which, in his opinion, should be given to the territory which is sought to be erected into a village municipality.—If the limits described in the report differ from those set forth in the petition, the special superintendent must state the reasons of such discrepancy.

**55.** The report of the special superintendent must be accompanied by a plan of the territory in question, distinctly showing:—1. The limits defined in the report;—2. Those defined in the petition, if they differ from those defined in the report;—3. Streets opened;—4. Streets projected;—5. Lots built upon;—6. Lots vacant.—After having made and signed his report, the special superintendent deposits it with the plan accompanying it, together with a copy of each, in the office of the county council.

**56.** The secretary-treasurer must give public notice of the filing of such report to the inhabitants of the rural municipality from which it is proposed to separate the territory in question, indicating at the same time the place where communication of the report and the plan may be taken by the interested, dating from the publication of such notice.

**57.** The county council may reject or homologate, with or without amendment, the report of the special superintendent within two months from the publication



of the notice of the filing of such report at the office of the council.—It cannot, however, proceed to the consideration and amendment of the report without first giving public notice to the inhabitants of the rural municipality concerned, of the day and hour at which its proceedings are to commence, and after having heard all interested parties, including the special superintendent, if such hearing is required.

**58.** The amendments made by the county council to the special superintendent's report must be entered on the original and the copies lodged in the office of the council, or on sheets of paper thereunto annexed.

**59.** At the expiration of two months from the publication of the notice of its deposit, the report of the special superintendent is held to be homologated as it then is, unless in this interval it has been rejected or expressly homologated by the county council.

**60.** After the homologation of the special superintendent's report, under article 57 or article 59, the secretary treasurer is bound to transmit to the provincial secretary a copy of the report and any amendments which may have been made, as well as of any other document connected with it, together with either the plan or a copy of the plan of the territory in question.

**61.** The lieutenant-governor, may, by an order in council, approve or reject the said report with its amendments, or may modify it or amend it anew.

**62.** If the report is approved, with or without amendment, the lieutenant-governor issues a proclamation erecting the territory described in the report into a village municipality, and declaring its name and defining its limits.

**63.** The proclamation comes into force on the day of its publication in the Quebec Official Gazette; and two copies thereof, certified by the provincial secretary, must be sent to the office of the county council. (*R. S. Q.*, art. 6041.)

**64.** The secretary treasurer of the county council gives public notice of the issuing of the proclamation erecting such village municipality, and transmits one

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of the copies of such proclamation to the mayor of the new municipality as soon as he is appointed.

**65.** From the date of the proclamation coming into force, the territory, as defined in such proclamation, is detached from the local municipality of which it formerly made part, and becomes a distinct village municipality under its corporate name. The remaining part of the municipality, if it contains a population of at least three hundred souls, continues to form a distinct municipality under its corporate name, the members and officers of the council then in office remain in office as if the erection of the village municipality had not taken place, the provisions of article 283, to the contrary notwithstanding.

**65a.** Every rural municipality having a population of ten thousand souls, as established by the last general census, or by a special census certified by the mayor or secretary-treasurer, may be erected into a village municipality by proclamation of the lieutenant-governor in council, upon petition of the majority in value of the proprietors of the said municipality according to the valuation roll then in force, and upon a resolution of the council of the municipality, setting forth that it is in the interest of the inhabitants of the locality that such erection into a village should take place; provided always that the territory does not exceed forty-five arpents in superficies, and that such resolution be accompanied with a plan showing the metes and bounds of the municipality.—The territory, as described in the proclamation, forms a village municipality under its own name, dating from the coming into force of the proclamation; but the councillors in office remain so until the expiration of their term, as if the erection had not taken place. (*R. S. Q.*, art. 6042.)

**66.** The by-laws, orders, roll or municipal acts which governed the territory before its erection into a village municipality, continue in force after such erection, subject to the application of the provisions of chapter three of this title, until they are amended or repealed by the village council.

**67.** The name of a village municipality is: "The municipality of the village of (*name of the village*)".

### § III.

#### ERECTION OF NEW TOWN MUNICIPALITIES.

**68.** The lieutenant-governor in council may, by proclamation, erect a territory forming a village municipality, into a town municipality, if he deems it in the interest of such municipality and its inhabitants so to do (1).

**69.** The proclamation issued in virtue of the preceding article, must be published in the Official Gazette of the province and comes into force on the first day of the month of January after it has issued.—A copy of it must be sent to the office of the county council, and another to the office of the council of the village municipality, which has been erected into a town municipality.—The secretary-treasurer of such municipality must give public notice of the issuing of the proclamation, immediately on receipt of a copy thereof.

**70.** The by-laws, orders, rolls or municipal acts which governed the territory before its erection into a town municipality, continue in force after such erection, until they are amended or repealed by the town council.

**71.** The name of a town municipality is: "The municipality of the town of (*name of the town*)."

### § IV.

#### ANNEXATION OF A TERRITORY TO A TOWN OR VILLAGE MUNICIPALITY.

**72.** Every territory forming part of a rural municipality, adjoining a town or village municipality, situated

(1) Held: That a Commissioners' Court erected for a parish retains its jurisdiction when the territory of the parish is subsequently formed into a village or town municipality. *Lemoine vs Doré* 1 M. L. R. (s. c.) 446.—*Lemieux vs La Cour des Commissaires de la paroisse de Longueuil*. 1 M. L. R. (s. c.) 497.—Held: *Contra*, re *Sirois et al vs Guimond*, 11 M. L. 230.

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in the same county as such town or village, may, by a resolution of the county council, be annexed to such town or village municipality. (*R. S. Q.*, art. 6013).

**73.** Articles 41, 42, 43 and 44 apply equally to annexations of territory made under the preceding article.

### § V.

#### ANNEXATION OF A TOWN OR VILLAGE MUNICIPALITY TO AN ADJOINING LOCAL MUNICIPALITY.

**74.** Every town or village municipality may be annexed to another adjoining local municipality in the county, by proclamation of lieutenant-governor, on a petition signed by at least two-thirds of the electors of such town or village municipality, as well as by two-thirds of the electors of the municipality to which such first-named municipality is sought to be annexed.—Any part of a town or village municipality may, in the same manner, be annexed to any local adjoining municipality in the county, provided there remain in the town or village municipality, a territory of sixty arpents in superficial extent, containing forty inhabited houses.—Nevertheless, when a village municipality is situated partly in one and partly in another of two adjoining parishes, either of such parts of the village municipality may be annexed to the municipality of the parish of which such portion of the village municipality forms part, provided that the petition, praying for such annexation, be signed by all the proprietors residing in the portion which demands such separation, and provided also that there remains in the municipality of the village, a territory of sixty arpents in superficies, containing forty inhabited houses. (*R. S. Q.*, art. 6044).

**75.** Such proclamation comes into force on the first day of January following the date of its issue.

**76.** The territory of the town or village so annexed to any local adjoining municipality, forms part of such municipality, from the date of the coming into force of the proclamation; and if the whole of the municipality

has been so annexed, it ceases from such time to form a distinct municipality. (*R. S. Q.*, art 6045).

**77.** The provisions of articles 43 and 44 apply also to every annexation made in virtue of article 74.

### CHAPTER III.

#### EFFECT OF THE CHANGE OF THE LIMITS OF A MUNICIPALITY UPON THE OBLIGATIONS AND RIGHTS OF RATE-PAYERS.

##### SECTION I.

##### SETTLEMENT AND DIVISION OF JOINT DEBTS.

**78.** The taxable property, comprised in a territory newly erected into a municipality or annexed to another municipality, or simply separated from a municipality without forming part of any other, whether by special act or under the authority of the provisions of this code, continues bound and obliged for all debts and obligations contracted before the change of limits, the separation, or the erection into a new municipality of such territory.

**79.** The council of the municipality from which a territory has been separated, is alone authorized and bound to settle their joint debts and obligations with the creditors.—But if any whole municipality which no longer forms of itself a distinct municipality is divided and must be annexed to one or more municipalities, or must form two or more new municipalities, or must be in part annexed to one or more municipalities and in part form one or more new municipalities, the only municipal council authorized and obliged to settle the joint debts and obligations with the creditors, is that which governs the territory which contains within its limits the place where the council sat at the time of such separation or division.—If, in the case of the preceding provision, the place where the council sat at the time of the division or separation, was in a village or town mu-

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to form a municipality, distinct from the divided or separated territory, the only municipal council authorized and obliged to apply also to settle the joint debts and obligations with the creditors, is that which governs the territory including within its limits the greater part of the divided or separated municipality.

**80.** All suits brought in reference to the settlement of such debts and obligations, may be brought in the district or in the county in which is situated the chief place of the council bound to settle such debts and obligations.

**81.** The settlement and division of joint debts and obligation must be based on the value of the taxable property, liable for such debts and obligations, according to the valuation roll in force at the time when such limits were changed.

**82.** The council bound for the settlement of joint debts and obligations and its officers are authorized : —  
1. To collect, throughout the whole territory liable for such debts and obligations, the taxes imposed for the payment of the same, by the by-laws in force at the time of the change of limits ; or—2. To impose thereon by by-law, new taxes to effect the full payment of such debts and obligations, with all the same rights and powers conferred upon the council and its officers, that governed the same before the division and separation of the territory ; or—3. The municipal corporation bound for the payment of the common debts and obligations may, after three months' notice duly served, claim and exact directly from the municipal corporation, charged with the administration of any portion of territory bound for such debts and obligations, the whole share collectively due by all the proprietors or occupants of taxable property comprised in such portion of territory. —The council, charged with the municipal administration of any such portion of territory so bound, may recover from the rate-payers bound for such debts and obligations, by means of by-laws or repartitions which



it makes for such purpose, the amounts which it has so paid. (*R. S. Q. art. 6046.*) (1)

**83.** Nevertheless, if any land liable for such taxes is not situated in the county municipality in which such council and officers have jurisdiction, such land cannot be sold, in default of payment of such taxes, except within the county municipality in which it is situated; and the secretary-treasurer, entrusted with the collection of such moneys, must transmit a statement thereof, within the time required, to the secretary-treasurer of such county municipality, who must, in default of payment of the taxes for which such land is liable, proceed to the sale of the same in the usual manner.

**84.** The council bound to settle the joint debts and obligations may, by mutual agreement with the council entrusted with the municipal administration of any other part of the territory liable for the payment of such debts and obligations, determine the total amount jointly due by all the owners or occupants of the taxable property comprised within such part of the territory. — This agreement is made in conformity with resolutions, previously passed for that purpose by the councils interested therein, and can only include debts and obligations liquidated and demandable.

**85.** The share established by the deed of agreement becomes a debt demandable, by the council bound to settle the joint debts and obligations, according to the terms of the agreement, of the municipal corporation whereof the council became a party to such deed, and may be recovered by the latter and its officers from the rate-payers liable for such debts and obligations, as well under the by-laws in force at the time of the deed of agreement as under new by-laws which such council may make for such purpose.

(1) *Held* (reversing the judgment of the Superior Court) that art. 82, M. C., gives the recourse of the old municipality against the rate-payers of the new municipality, or such of them as are owners of lands subject to an old obligation, and not against the new municipality. — *La Corporation du Sacré-Cœur vs. La Corporation de Rimouski*, 7 *Legal News*, 407.

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## SECTION II.

## DIVISION OF COMMON PROPERTY.

**86.** Property consisting in sums of money, assets, effects, moveables or immoveables, belonging to the corporation at the time of a change of limits, or of the separation of any territory, with exception of those mentioned in the following article, must be divided in the same manner as joint debts.

**87.** The books, registers, plans, rolls, lists, documents, papers or records of the corporation remain the exclusive property of the council, which is bound to settle the joint liabilities.

**88.** The council bound to settle the joint liabilities is alone authorized to collect and settle all arrears of municipal taxes and all other assets due before the change of limits, by itself or by its officers, with the same rights and powers as those conferred upon the council and officers authorized to collect and settle them before such change of limits.

**89.** Such council may nevertheless convey by deed of agreement to the council entrusted with municipal administration of any other part of the territory which was included in the old municipality, for the benefit of the rate-payers of such part of the territory, all arrears of municipal taxes and all other assets arising out of the taxable property included in such part of the territory; and the council to which such conveyance was made and its officers are authorized to collect and settle such arrears and assets, with all the rights and powers possessed by the council making such conveyance and its officers.

## SECTION III.

## MISCELLANEOUS PROVISIONS.

**90.** No rate-payer of a territory detached or separated from a local municipality is obliged, in virtue of any *procès-verbal*, act of repartition, by-law or order, in force

at the time of the change of limits, to perform work upon municipal roads or bridges up to that time deemed to be local, and situated in the remaining part of the local municipality from which such territory has been detached or separated. (1) — Notwithstanding article 5, the same rule applies to the rate-payers of any local municipality from which any territory has been detached or separated respecting works of a similar nature situated within the limits of such territory. (*R. S. Q., art. 6047.*)

**91.** No territory annexed to a municipality is liable for the payment of debts and obligations contracted by the corporation of such municipality before the annexation.

**92.** The council of every newly organized municipality, and of every municipality which comprises or governs a territory detached or separated from another municipality is entitled to obtain certified copies of all by-laws, resolutions, orders, *procès-verbaux*, rolls, papers, books, plans or documents, which have reference to such new municipality or to such territory, from the council in whose possession they are, on payment of ten cents for each hundred words. — The council requiring such copies may have them made by one of its officers, on payment of fifty cents for each certificate made or thereunto affixed by the secretary-treasurer or other officer in charge of such documents.

(1) *Held*: When a portion of a municipality has been detached in order to form a separate municipality, the rate-payers within the detached portion are no longer bound by any *procès-verbal* under which they were previously obliged to maintain any part of a road within the portion from which they have been detached. — (*Deschênes vs. La corporation de Ste-Marie*, 7 Q. L. R. 50.

## PROVISIONS

**93.** Every council: it is charged by such

**94.** Such name of "The name of the municipality of or of the). (2)

**95.** The entire extent of the territory it represents, and in special cases upon it. — Its obligations upon

**96.** The municipality composed of as a constituent, and may be examined in any business or execution of certain account of the

(1) *Jugé*: Qu'une corporation de 356 C. C. et est résolu dans une résolution Corporation de Mo

(2) *Jugé*: Qu'une West Chester doit être la corporation. Le do West Chester, 12

## TITLE II.

## PROVISIONS COMMON TO ALL MUNICIPAL CORPORATIONS.

## CHAPTER I.

## OF THE MUNICIPAL COUNCIL.

## SECTION I.

## GENERAL PROVISIONS.

**93.** Every municipal corporation is represented by its council : its powers are exercised and its duties discharged by such council and its officers. (1)

**94.** Such council is recognized and styled by the name of "The municipal council of or of the (*insert the name of the municipality without the words municipality or of the*). (2)

**95.** The council has jurisdiction throughout the entire extent of the municipality, the corporation of which it represents, and beyond the limits of the municipality in special cases where more ample authority is conferred upon it.—Its orders, within the scope of its powers, are obligatory upon all persons subject to its jurisdiction.

**96.** The municipal council may appoint committees, composed of as many of its members as it judges convenient, and may delegate to them its power respecting the examination of any question, the management of any business or particular kind of business, or for the execution of certain duties.—The committee must render account of their labors and their decisions by reports

(1) *Jugé* : Qu'une corporation municipale est soumise à l'article 356 C. C. et est responsable en dommages pour un libelle contenu dans une résolution adoptée par son conseil. *Brown et al., vs. La Corporation de Montréal*, 4 R. L. p. 7.

(2) *Jugé* : Qu'une action prise au nom du Conseil du Canton de West Chester doit être renvoyée, l'action devant être prise au nom de la corporation. *Lemesurier, et Le Conseil municipal du Township de West Chester*, 12 L. C. R. 314.

signed by their chairman or by a majority of the members who compose them; and no report or order whatever of a committee has any effect until it has been adopted by the council at a regular session; save in the case of article 98.

**97.** Everyone who is entitled to be heard before the council or its committees, may be so heard in person or by any other person acting on his behalf, whether authorized by power of attorney or not. He may also produce and examine witnesses.

**98.** The council or committees, on every question or matter pending before them, may:—1. Take communication of all documents and writings produced in evidence;—2. Summon any person residing in the municipality;—3. Examine under oath the parties and the witnesses produced by the parties, and administer or cause to be administered to them an oath or affirmation by one of their members or by the secretary-treasurer;—The council may declare who shall bear and pay the costs incurred for the production of the witnesses heard, or for the summoning of witnesses who have made default, and tax such costs including the reasonable travelling expenses and fifty cents a day for the time of the witnesses.—The amount thus taxed may be recovered, either by the corporation or by the person who has advanced and paid the same, as the case may be, in the manner prescribed for the recovery of penalties imposed by this code. (*R. S. Q.*, art. 6048).

99. If any one so summoned before the council or the committees fails, without just cause, to appear at the time and place mentioned in the summons, when compensation has been paid or offered to him for his reasonable travelling expenses for going and returning, and fifty cents a day for his time, he incurs a penalty of not less than four, or more than ten dollars, or imprisonment not to exceed fifteen days.

**100.** Any *procès-verbal*, roll, resolution or other order of a municipal council, may be set aside by the magistrate's court or by the circuit court of the county or district, by reasons of its illegality, in the same manner

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**Jugé :** Que l'ordonnance d'une taxe directe qui constitue un acte de répartition, les amendes frappées par la Cour de cassation et dans le cas où leur légalité est établie, le bref de prohibition n'est pas indiquée par le Code de Commerce, 4 Q. L.

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within the same delay, and with the same effect, as a municipal by-law, and is subject to the provisions of articles 461 and 705. (1)

(1) *Jugé*: Que la contestation des résolutions des conseils autorisée par l'article 100 du Code Municipal, n'est pas, pour celle de la nomination des conseillers par le conseil, exclusive de celle que permettent les articles 1016 et suivants du Code de Procédure; 2<sup>o</sup> Que la procédure indiquée par ces articles du Code de Procédure n'est pas le *Quo warranto*, mais un mode spécial permettant aux particuliers de porter plainte contre les usurpations ou détentions illégales de charges publiques.—*Paris vs. Couture*, 10 Q. L. R., 1.

*Jugé*: 1<sup>o</sup> Qu'il y a ouverture à la voie de cassation devant la Cour de Circuit, d'une décision ou résolution d'un conseil de comté, même siégeant en appel d'un règlement du conseil local, si le conseil de comté commet une illégalité; 2<sup>o</sup> Que c'est le cas d'appliquer les articles 100 et 698 qui ont rapport à tous les conseils municipaux, locaux ou de comté. *Corporation de St-Maurice, vs. Dufresne*, 10 Q. L. R. 227.

*Jugé*: Que l'ouverture d'un chemin par un conseil et l'imposition d'une taxe directe sur les personnes en faveur desquelles il est ouvert constituent un acte législatif contenu dans le procès-verbal et l'acte de répartition, lesquels sont exécutoires jusqu'à ce qu'ils aient été cassés par la Cour de Magistrat ou par la Cour de Circuit de la manière et dans les délais prescrits aux Arts. 100, 461 et 705 C. M. et que leur légalité ne pourra être mise en question incidemment sur un bref de prohibition et ne peut l'être que par la procédure directe indiquée par le Code. *Simard & la Corporation du comté de Montmorency*, 4 Q. L. R. 20.

*Jugé*: Que lorsqu'une partie taxée dans un rôle de cotisation ou répartition prend une action, pour faire déclarer ce rôle nul, et consent ensuite à payer la taxe réclamée, une autre partie aussi cotisée dans ce rôle de répartition, pourra être reçue partie intervenante; qu'une telle action est de la nature d'une action populaire. *La Banque Molson vs. la Cité de Montréal, et Hubert, Intervenant*, 11 R. L. 542.

*Held*.—That an appeal lies from a judgment of the Circuit Court under art. 100 of the Municipal Code.—*Ralph vs Corporation of the Township of Stoke*, 24 L. C. J. 103.

*Held*:—1. The jurisdiction of the Superior Court is not taken away by M. C. 100, in actions to set aside a *procès-verbal* or resolution of a municipal council.—*La Corporation du Comté d'Arthabaska vs Patoine*, 9 L. N. 82.

*Jugé*: Que la Cour de Circuit n'est pas autorisée à décider de la validité d'un rôle d'évaluation, l'art. 100 n'ayant trait qu'aux actes faits par le conseil, et le rôle étant fait par les officiers municipaux. *Laurent vs. La Corporation du village St-Jean-Baptiste*, 17 L. C. J. 192; 4 R. L., p. 684.

*Jugé*: Qu'un règlement passé par un Conseil local, accordant un bonus à une compagnie de chemin de fer, et auquel le conseil aurait, par une résolution, adoptée à une session spéciale tenue après la pas-

**101.** Any council which has neglected to appoint its head or its officers, or to fill any vacancy it was bound to fill, within the delays prescribed, may still make such appointment or fill such vacancy of such delay, unless the lieutenant-governor has already done so under the provision of this code.

**102.** Any document, order of council or of a municipal council, the publication of which is required by the provision of this code or by the council itself, must be published in the manner and at the places prescribed for public notices, except in cases otherwise provided for.

**108.** Any person, producing or lodging any document relating to municipal matters in the office of the council, or before the council in session, is entitled to a receipt or acknowledgment certifying the production or deposit of such document, from the secretary-treasurer, or in his absence, from the person presiding at the council, if the council is in session.—Any secretary-treasurer, or person presiding, who neglects or refuses

sation d'un règlement, changé la date de l'exécution d'une obligation imposée à la compagnie, ne sera pas annulé, s'il n'est pas constaté qu'une injustice réelle est résultée pour les requérants en cassation.

Qu'un changement ainsi fait ne constitue pas un faux. Simpson et al, vs. La Corporation de la paroisse de Ste-Malachie d'Ormstown 14, R. L. p. 485.

*Jugé :* Que sept requérants peuvent s'unir, dans une seule et même action en injonction, pour demander la nullité d'un procès-verbal, ordonnant le changement d'un chemin de front et de tous les procédés faits sur procès-verbal, par la corporation municipale, et qu'injonction soit donnée à la corporation de ne pas ouvrir et faire le chemin sur les propriétés respectives des requérants, ou que ces demandes sont connues. Laferté et six autres *vs.* La Corporation de la paroisse de St-Aimé et Robidoux. 14, R. L. p. 476.

**Held:** That in matter concerning municipalities in which irregularities are alleged, if it is shown that there has been a substantial compliance with the requirements of the law relating to such matters, it must be proved by those alleging such irregularities that a substantial injustice will be caused thereby, in order to obtain a judgment annulling the proceedings complained of.

That such proceedings can only be contested in the manner provided by law and specially by the Municipal Code. The Corporation of the County of Arthabaska and The Corporation of the County of the Parish of St-Fortunat de Wolfe and of East Chester, mis en c. 32, L. C. J. p. 82.

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to receive any such document, or to deposit the same in the archives of the council, or to give the required receipts, incurs a penalty of twenty dollars in each case, in addition to the damages caused by such refusal or neglect.

**104.** Documents produced as exhibits, and filed in the office of the council or with its officers, must be returned on receipt to the persons who produced the same, whenever they require them.

**105.** The office of the council is that which is occupied by the secretary-treasurer in his official capacity and must be held within the limits of the municipality, except in the case of the following article.

**106.** The office of the council of a rural municipality, or of its officers, and the place where it holds its sessions, may be established in the municipality of a village, of a town, or of a city, incorporated in virtue of this code or any other act, provided always, that such municipality of a village, town or city, is contiguous thereto.

**107.** Every service, production or deposit, which should be made at the office of the council, may be made with equal validity to a reasonable person at the domicile of the secretary-treasurer, or to the secretary-treasurer personally.—In such case, however, the receipt cannot be demanded unless the production or deposit has been made with the secretary-treasurer personally (1).

## SECTION II.

### OF THE MEMBERS OF THE COUNCIL.

**108.** Every member of the council, so soon as he is

*Held.*—That municipal councillors who, after their term of office, are bound (*en garantie*) in warranty or for indemnity by reason of some deed of theirs made whilst discharging their duties have right to the notice required by art. 22. C. C. P.—*MORISSETTE & AL. V. CORPORATION DU VILLAGE DE BRIENVILLE*, 5, Q. L. R., 362.



appointed, must make oath well and faithfully to discharge the duties of his office. (1)

**109.** The oath which the head of the council shall have taken as councillor, does not exempt him from taking the oath of office as mayor or warden.

**110.** An entry of the taking of the oath of office by councillors and the head of the council, before one of the officers mentioned in article 6, shall be made in the minute book of the council. (*R. S. Q.*, art. 6049).

**111.** A member of the council does not enter upon the discharge of his duties, until he has taken the oath of office.

**112.** The omission during fifteen days on the part of any member of a council to take the oath required for the office to which he has been appointed, constitutes a refusal to accept such office, and renders him subject to the penalties prescribed in such case.

**113.** The councillors do not receive any salary, profit or indemnity, in any shape whatsoever, for their services.

**114.** The members of the council are unable to hold any subordinate offices under any municipal council of which they are members, or if under the county council, they are members of one of the local councils of the county municipality.

**115.** No member of the council can be surety for the performance of the duties attached to an office under the council of which he forms part.

**116.** Every member of a council appointed in the place of another, whether it be as head of the council or as councillor, holds office for the remainder only of the period for which his predecessor has been appointed.

**117.** Any person appointed a local or county councillor, who illegally refuses to accept such office or to

(1) *Held.*—That when a municipal corporation illegally declares the seat of a councillor to be vacant, the remedy of the latter is by mandamus against the corporation.

20. That the taking of the oath of office by municipal councillor is essential, but the disposition of the Municipal Code which requires that an entry thereof be made in the minutes of the council is directory only.—*SAVARIA V. CORP. DE VARENNES*, 3 M. L. R. (S. C.) 157.

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**118.** A member of council is deemed to have refused to continue to perform the duties of his office when he, for two months, refuses or neglects without, in the opinion of the council, reasonable cause, to discharge the duties of such office.

**119.** Any member who refuses to accept the office or to continue to perform the duties of the office to which he has been appointed in the council, or who is unable to perform such duties for three consecutive months, through absence, illness, infirmity, or otherwise, may, at any time, until the vacancy caused by his refusal or incapacity to act be filled up resume his duties and perform the same, if he is able to do so, without prejudice in any case to the costs of proceedings instituted against him, in the event of any such proceedings having been instituted.

**120.** No vote given by a person filling, illegally, the office of member of the council, and no act in which he participates in such quality can be set aside solely by reason of the illegal exercise of such office.

### SECTION III.

#### PROVISIONS SPECIALLY APPLICABLE TO THE HEAD OF THE COUNCIL.

**121.** The head of the council exercises the rights of superintendence over all the officers of the municipality, sees to the faithful and impartial execution of all municipal ordinances and by-laws, and communicates to the council any information of suggestion which he considers conducive to the interests of the municipality or its inhabitants.

**122.** He signs, seals and executes, in the name of the council, all debentures, contracts, agreements or deeds made and passed by the corporation, unless the council provide otherwise.

**123.** It is his duty to read to the council, in session, all circulars or communications addressed to himself or the council by the lieutenant-governor or by the provincial secretary, and, if it be required by the council, or by the lieutenant-governor, to make them public to the municipality, in the manner required for public notices.

**124.** He is also bound to furnish to the lieutenant-governor, on demand, all information concerning the execution of the municipal law, and all other information which it may be in his power to give with the concurrence of the council.

**125.** The head of every council is *ex officio*, without other qualification and without being obliged to take the oaths prescribed for such office, a justice of the peace within the limits of the municipality wherein he exercises his office, so long as he continues in office.—He is incompetent to hear and decide all cases in which the corporation or its officers are interested parties.

## SECTION IV.

OF THE SESSIONS OF THE COUNCIL.

**126.** Special sessions of any municipal council may be convened at any time by the head or by the secretary-treasurer or by two members of such council, by giving special notice of such session to all the members of the council, other than those summoning the same.

**127.** At a special session the subjects or matters mentioned in the notice calling the council together can alone be taken into consideration.—The council, before proceeding to business at such session, must set forth and declare in the minutes of the sitting contained in the book of its deliberations, that the notice of meeting has been issued in conformity with the requirement of this code to all the members of the council who are not present at the opening of the sitting.—If it appear that the notice of meeting has not been served on all the

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(1) A special session of the mayor. All the members proposed that in as much as the mayor was disqualified, his resignation was made therefore void. P. not voting according to the resolution cancelling the incorporation of Bryson.

*Held:* That the mayor's resignation without previous notice at special sessions was void without consent, transacting business of convocation.

absent members, the session must be immediately closed, under penalty of all its proceedings being null. (1)

**128.** Every session commences at the hour of ten in the forenoon, unless otherwise determined by the notice of the meeting, by an adjournment, or a by-law or resolution of the council.

**129.** If the day fixed for an ordinary session by the provisions of this code or by municipal by-laws, falls upon a holiday, such session is held on the next following judicial day.

**130.** The sessions are held with open doors. Until otherwise ordained, in virtue of article 467, each session consists of one sitting, unless adjourned.

**131.** The sessions of the council are presided over by its head, or in the event of there being no head, or in his default to act, or in his absence, by one of its members, chosen from the councillors present. In the case of an equal division of votes in the choice of a presiding officer, the member present chosen by lot presides at the council board.

**132.** The presiding officer of the council maintains order and decorum and decides questions of orders, saving appeal to the council.—He has and may exercise, subject to an appeal to the council, all powers conferred by article 301 on the presiding officer at an election. (*R. S. Q.*, art. 6050.)

**133.** Every disputed question is decided by a majority of the vote of the members present excepting in case where in conformity with the provisions of this

(1) A special session of the council had been called to elect the mayor. All the members were present, and a resolution was proposed that in as much as one of the councillors, P., was notoriously disqualified, his seat should be declared vacant. No amendment was made thereto, and the resolution was passed on a division, P. not voting according to art 135. Petition from P. to have this resolution cancelled granted by Judge Papineau.—*Pattison vs. Corporation of Bryson*, 9 L. N. 169.

*Held*: That the municipal councillors can meet in special sessions without previous notice, provided they be all present; and that at special sessions when all the councillors are present, they may, if all consent, transact other business than those mentioned in the letter of convocation. *Paris vs. Couture*, 10 Q. L. R. 1.

code, the votes of two third of the members of the council or of the members present, are required.

**134.** The chief of the council and the presiding officer, if they be also members of the council, vote each time a question is put to the vote; and in case of an equal division of votes, they have in addition the casting vote.—If the presiding officer be not also a councillor, he can only vote in the case of an equal division of votes.—In cases of an equal division of votes, the presiding officer is always bound to give the casting vote. (*R. S. Q.*, art. 6051 (1).)

**135.** No member of a council can take part in the discussion of any question in which he has a personal interest. The council in case of dispute decides whether the members has or has not a personal interest in the question; and such member has no right to vote on the question of his interest.—This article does not apply to the appointment of the head of council nor to the naming of committees (2).

**136.** If the majority of the members of a local coun-

(1) *Jugé*: 1° Que le maire d'un conseil local n'a le droit de voter durant les sessions qu'il préside dans cette qualité, que lorsqu'il y a égalité de votes.

2° Qu'un conseiller municipal peut, lors de l'élection du maire voter pour lui-même. *Lemieux vs. Cantin*, 7 Q. L. R. 16.

(2) *Jugé*: Que les membres d'un conseil municipal ne peuvent voter sur les questions qui les concernent directement et dans lesquelles ils ont un intérêt pécuniaire à sauvegarder.

*Monbleau et Fils vs. La Corporation de la Ville de St-Jean et Stéfani & Moore* mis en c. 32 L. O. J., p. 149.

*Jugé*: Que l'intérêt dont parle l'art. 135 C. M., doit être un intérêt personnel distinct de l'intérêt général de tous les contribuables de la municipalité.

Qu'une corporation municipale peut s'obliger à payer les frais d'une requête à être présentée par un contribuable, lorsque l'objet de cette requête intéresse tous les contribuables de la municipalité. *Desroches vs. La Corporation de la paroisse de St-Bazile-le-Grand*. 17 R. L., p. 266.

*Jugé*: Qu'une résolution d'un conseil municipal approuvant un certificat d'électeurs pour l'obtention d'une licence, passée par le concours d'un conseiller intéressé à l'octroi de la licence, et dont le vote donne la majorité, est nulle.

*Monbleau vs. La Corporation de la Ville de St. Jean et al.* 17 R. L., p. 271.

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cil have a personal interest in any question submitted to their decision, such question must be referred to the county council, which in respect of the consideration and decision of such question, possesses all the rights, privileges and obligations of the local council.

**137.** Members of the council are not permitted to vote by ballot; the vote are recorded in the minutes of the proceedings of the council, when required.

**138.** Any ordinary or special session can be adjourned by the council to any other hour of the same day or to a subsequent day, without it being necessary to give notice of such adjournment to the members who where not present, excepting in the case of the following article.

**139.** Two members of the council, when there is not a quorum present, may adjourn the session at the expiration of one hour from the time it was established that there was no quorum, the hour of the adjournment and the names of the members of the council present must be inscribed in the minutes of the sitting in the book of the proceedings of the council.—In this case a special notice of the adjournment is given by the secretary-treasurer to the members of the council who where not present at the time of adjournment. The service of this notice must be established at the resumption of the adjourned session, in the same manner as that of the notice convening a special session, and the absence of service of such notice renders every proceeding adopted at such part of the adjourned session, void.

**140.** No council is dissolved by the fact of any session thereof not having taken place.

**141.** The place where the sittings of the council are held, must be as much as possible in the most public place of the municipality.



## CHAPTER II.

## OF THE OFFICERS OF THE MUNICIPAL COUNCIL.

## SECTION I.

## OF THE SECRETARY-TREASURER.

**142.** Every municipal council must have an officer entrusted with the care of the office and the archives of the council, and designated by the name of "secretary-treasurer."—In every newly-formed municipality the secretary-treasurer must be appointed by the council within thirty days after the entry into office of the majority of the new councillors. (1)

**143.** The secretary-treasurer remains in the office during the pleasure of the council.

**144.** Every secretary-treasurer, before acting as such, must make oath to discharge well and faithfully the duties of his office, and must within thirty days next following give security in the manner prescribed by this code.—Nevertheless the want of security shall in no wise prevent the secretary treasurer from performing the duties of his office; but those members of the council under whom he acts, who have not exacted or demanded such security shall be jointly and severally responsible in the same manner as are the sureties in virtue of article 147. (*R. S. Q.*, art. 6052).

(1) 1o Un prêtre, étant dans les ordres sacrés et ministre d'une croyance religieuse, est inhabile à occuper une charge municipale.

2o La charge de secrétaire-trésorier d'un conseil municipal est une charge dans une corporation, et une charge publique, dans le sens de l'art. 1016 du C. P. C.

3o La description d'une charge par les mots "secrétaire-trésorier de la Corporation de Metgermette-Nord" dans un bref et une requête libellée sous l'art. 1016 C. P. C., alors que le nom légal de la charge est "le secrétaire-trésorier du conseil municipal de la partie nord du township de Metgermette" constitue une erreur totale et suffit pour faire renvoyer les dits bref et requête.

Vannier vs. Meunier, en révision, Stuart J. O. Casault, Caron J.J. 30 sept. 1887. 12 L. N., p. 370 et 371.

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**145.** The secretary-treasurer may, from time to time, appoint under his hand, an "assistant-secretary-treasurer," who may perform all the duties of the office of secretary-treasurer, with the same rights, powers and privileges and under the same obligations and penalties as the secretary-treasurer himself, except as regards giving security.—In the cases of a vacancy in the office of secretary-treasurer, the assistant-secretary-treasurer must continue to perform the duties of the office until the vacancy is filled.—The assistant secretary-treasurer enters into office after making oath to discharge well and faithfully the duties of such office; he may be removed or superseded at will by the secretary-treasurer.—In the performance of his functions he acts under the responsibility of the secretary-treasurer who appointed him and of the sureties of such secretary-treasurer. (1)

## § 1.

## OF THE SECURITY FURNISHED BY THE SECRETARY-TREASURER.

**146.** The secretary-treasurer furnishes either one or two sureties, whose names are first approved by resolution of the council.

(1) *Jugé*.—10. Que l'assistant-secrétaire-trésorier a le même droit de présider l'assemblée des électeurs, pour l'élection des conseillers, que le secrétaire-trésorier lui-même.

20. Que le défaut d'habileté à voter, chez ceux qui ont présenté les candidats, n'est pas une cause de nullité de l'élection, s'il n'y a pas eu d'objection de faite, lors de la mise en nomination, ni avant l'ouverture du poll, et si la votation s'est faite régulièrement.

30. Que l'omission de la qualité des électeurs dans le livre de poll n'est pas une cause de nullité de l'élection, s'il n'en est résulté aucune injustice. Car cette formalité ne porte pas sur le vote même, et n'affecte pas essentiellement l'élection.

40. Que l'absence du secrétaire-trésorier du bureau municipal pendant la semaine qui a précédé l'élection, et l'impossibilité pour cela des électeurs de payer leurs taxes et d'acquiescer le droit de voter, n'est pas une cause de nullité d'une élection, si cette absence a de justes causes et est exempte de toute fraude, et si, de fait, un seul électeur s'est présenté pour payer ses taxes, et n'a pu, à raison de cette absence, les payer et se qualifier à voter.—MARRINE ET RASCONI, 7, R. L., 140.

**147.** The sureties bind themselves jointly and severally with the secretary-treasurer, towards the corporation, for the due performance of the duties of his office and for the payment of all moneys, for which the latter in the exercise of his office may be accountable, whether principal, interests, costs, penalties or damages.

**148.** One of the obligees must hypothecate, in and by the security-bond, property belonging to him personally for the payment of a sum determined by resolution of the council and exigible under the provisions of the preceding article.—This hypothec may be given in the same instrument by more than one of the obligees, or upon more than one property.—The properties offered must be previously accepted by resolution of the council; nor can they be accepted until it is proved to the satisfaction of the council that they are worth, at least, beyond all charges and hypothecs upon them, twice the amount of the hypothec required.

**149.** The security-bond must be accepted by the head of the council in the name of the corporation, and be executed before a notary, or in duplicate, *sous seing privé*, before two witnesses who sign the same.—Such security-bond, any law to the contrary notwithstanding, constitutes a hypothec on the immoveables, therein described so soon as it shall have been registered in the office of the registration division in which such immoveables are situated.—It is the duty of the secretary-treasurer, without delay, to register his security-bond, and after he has registered the same, to transmit a copy thereof or a duplicate thereof to the head of the council, together with a certificate of its enregistration.

**150.** The sureties of the secretary-treasurer may, at any time, by giving notice in writing of their intention to the secretary-treasurer himself and to the head of the council, free themselves from future liability under their bond, at the expiration of thirty days after the service of such notice.—This notice is given and served by a notary, or by the surety himself in a writing delivered in presence of one witness who signs the same.

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and seven days after the service of such notice, furnish other sureties in lieu of those who have withdrawn; in default of his so doing, he cannot discharge any of the functions of his office, under a penalty of twenty dollars for each infraction of the provision.

**152.** Whenever one of his sureties dies, becomes insolvent, or removes his domicile outside the limits of the district, the secretary-treasurer must, so soon as he becomes aware of such fact, inform the head of the council, in writing thereof, under a penalty of one hundred dollars; and he must supply the place of such surety within the thirty days next following. In default of his so doing he cannot perform any of the duties of his office, under the penalties prescribed by the preceding article.

**153.** The sureties of the secretary treasurer, after they are freed from future liability under their bond, or after the secretary-treasurer has ceased to discharge the duties of such office, may exact from the head of the council a certificate of discharge for the future, which certificate, after registration thereof, discharges thenceforth the immoveables hypothecated by such security-bond.

**154.** The head of the council is authorized to give and sign a consent to the discharge of the hypothec given by the sureties of the secretary-treasurer, in cases where such consent may be asked and granted.

**155.** No person, who has been surety for any secretary-treasurer, can be a member of the council whereof such secretary-treasurer was the officer, until he is discharged from all obligations towards the corporation arising out of his security-bond (1).

**155a.** The secretary-treasurer may, with the consent of the council, in lieu of hypothecary security, furnish

(1) *Jugé*: Que l'élection comme membre d'un conseil local, d'une personne qui est caution du secrétaire-trésorier de la municipalité est illégale, et que l'acceptation d'une autre caution, et la décharge du candidat élu de toute obligation à cet égard, faite par le conseil, à sa première assemblée après l'élection, n'aura pas l'effet de valider cette élection. Fouché et al vs. Dumoulin, 17 R. L. 426.

security by means of a bond or policy of guarantee in favor of the corporation, in any Canadian Guarantee Assurance Company, approved by the council. (*R. S. Q.*, art. 6053.)

## § II.

### GENERAL DUTIES OF THE SECRETARY-TREASURER.

**156.** The secretary-treasurer is the keeper of all the books, registers, plans, maps, archives, and other documents and papers, which are either the property of the corporation, or are produced, filled and preserved in the office of the council. He cannot divest himself of the custody of these archives, except with the permission of the council, or under the authority of a competent court (1).

**157.** He attends at all sessions of the council and draws up minutes of all the acts and proceedings thereof, in a register kept for the purpose, and called "The Register of proceedings."—All minutes of the sitting of the council, must be approved by the council, signed by the person who presided over the council during such sitting and countersigned by the secretary-treasurer.—Whenever a by-law or a resolution is amended or repealed, mention must be made thereof in the margin of the register of proceedings and opposite such by-law or resolution, together with the date of its amendment or repeal (2).

(1) *Jugé* : Que le secrétaire d'un conseil municipal ne peut être tenu de produire en cour les documents et registres du conseil se rapportant à la question en litige. *Cramp et La Cité de Montréal*. 21 L. C. J. 249. Une semblable décision dans *Workman vs. La Cité de Montréal*. 20 L. C. J. 217.

(2) *Jugé* : Que le secrétaire n'est pas tenu d'entrer de suite, lors de l'assemblée, dans le registre des délibérations, les résolutions et règlements du conseil, mais qu'il peut les inscrire sur des feuilles volantes, pour les entrer ensuite au net dans le registre après l'assemblée. *Martin vs. la Corporation du comté d'Argenteuil*. 7 L. N. 130.

*Held* : That a rate-payer may take proceedings to compel the secretary-treasurer of a municipality to enter in the minutes of council a resolution regularly passed more especially when such resolution imputes perjury to him. *Massue vs. Nadeau* 3 M. L. R. (s. c.) 118.

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(1) *Held* : That the custodian of the same, except in the present case, Mayor for safe keeping to account to the Corporation. *et al* 11 L. N. p. 39.

(2) *Jugé* : Que l'on n'a pas le droit de traiter. *Martin vs.*  
*Jugé* : Que le secrétaire un billet pour la ville de Montréal, 1

**158.** Copies and extracts certified by the secretary-treasurer from all books, registers, archives, documents and papers preserved in the office of the council, are evidence of their contents.

**159.** The secretary-treasurer collects and has charge of all moneys due or payable to the corporation (1).

**160.** He pays out of the funds of the corporation all sums of money due by it, whenever he is authorized to do so by the council. If the sum to be paid does not exceed ten dollars, the authorization of the head of the council is sufficient.—Even in the absence of authorization from the council or from the head of the council, it is his duty, to pay, out of the funds of the corporation, any draft or order drawn upon him, or any sum demanded, by any one empowered so to do by the provisions of this code, or by the municipal by-laws.—No draft or order can, however, be legally paid unless the same shows sufficiently the nature of the use to be made of the sum therein mentioned. (2)

**161.** No secretary-treasurer can, under a penalty of twenty dollars for each infraction:—1. Grant discharges to rate payers or other persons indebted to the corporation for municipal taxes or other debts, without having actually received in cash or in lawful value the amount mentioned in such discharges;—2. Lend, directly or indirectly, by himself or by others, to rate-payers or other persons whatsoever, moneys received in payment of municipal taxes or belonging to the corporation.

(1) *Held*: That under our Municipal law a Secretary-Treasurer, the custodian of Corporation monies, cannot legally divest himself of the same, except in the manner prescribed by the Code; and that in the present case, although he had paid the same over to the then Mayor for safe keeping, he was not thereby relieved from the liability to account to the Corporation.

The Corporation of Melbourne and Brompton Gore *vs.* John Main et al 11 L. N. p. 394.

(2) *Jugé*: Que le secrétaire-trésorier d'une corporation municipale n'a pas le droit de signer des billets promissoires, ou d'accepter des traites. *Martin vs. la Corporation de la cité de Hull* et al. 9. R. L. 512.

*Jugé*: Que le secrétaire-trésorier d'une cité n'a pas le droit de prendre un billet pour des taxes municipales. *Dumaine vs. La Corporation de Montréal*, 1 R. C., p. 475.



**162.** The secretary-treasurer is bound to keep, in the form prescribed by the provincial secretary, books of account, in which he enters, according to date, each item of receipt and expenditure, mentioning therein the names of all persons who shall have paid money into his hands, or to whom he has made any payment.—He must preserve and file amongst the archives of the council all vouchers for his expenditure. (*R. S. Q.*, 6054)

**163.** The secretary-treasurer is bound to keep a "repertory," in which he mentions in a summary manner and in the order of their dates, all reports, *procès-verbaux*, acts of apportionment, valuation rolls, collection rolls, judgments, maps, plans, statements, notices, letters, papers and documents whatsoever, which are in his possession during the exercise of his office.

**164.** The secretary-treasurer's books of account and vouchers for his expenditure, together with all the registers or documents in his possession as archives of the council, are opened for inspection and examination on office days, between the hours of nine in the morning and four in the afternoon, to members of the council to municipal officers, to every interested party, and to all rate-payers of the municipality, or their attorneys.—Such persons, either themselves or by their attorneys, may take either with a pencil or with a pen, all notes, extracts or copies which they may require. (*R. S. Q.* art. 6055.) (1)

**165.** The secretary-treasurer is bound to deliver, upon payment of his fees, to any person applying for the same, copies or extracts from any book, roll, register, document or other paper, which forms part of the archives. It is also his duty to send without delay by mail to the principal place of business of any corporation, or iron or wooden railway company, which shall have filed in the office of the council a general application to that effect, and shall have made such principal

(1) *Held.*—That the city of Montreal will not be compelled to dispossess itself of documents forming part of the archives of the city in order that the same be filed as evidence in a cause. *Cramp and The Mayor & al of Montreal* 21 L. C. J. 249.

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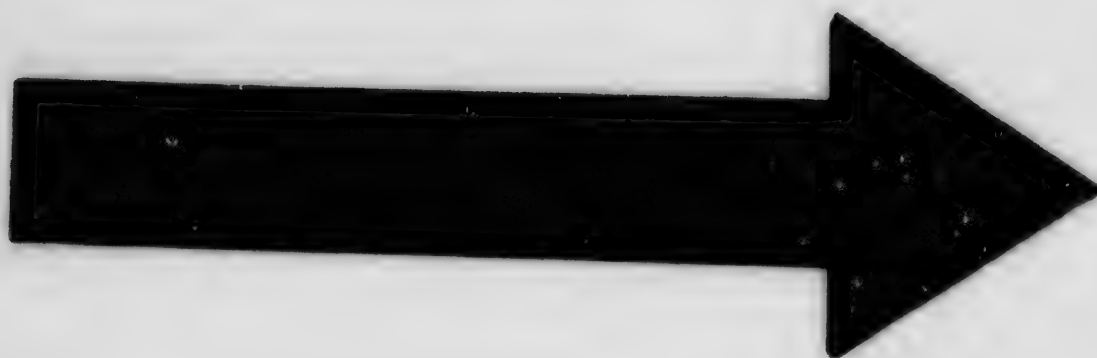


place of business known, a certified copy of every public notice, by-law, resolution or *procès-verbal* filed for homologation or homologated which affects such corporation or company, as well as a certified extract, from the valuation roll, including the valuation of the taxable property of such corporation or company, together with a bill of his fees, which the company is bound to pay immediately on receipt of such document.—His fees, until established under art. 471, and unless otherwise fixed by the provisions of this code, are ten cents per hundred words, and fifty cents for the certificate.—The secretary-treasurer nevertheless is bound to furnish gratuitously any copy or extract required by the lieutenant-governor, or by the council or its officers.

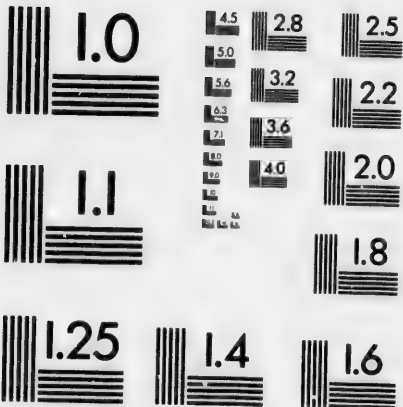
**166.** The secretary-treasurer is bound to render, during the month of January in each year, a detailed account of his receipts and expenditure up to the thirty-first day of the month of December preceding, and he is also bound to render such account oftener if required by the council. (*R. S. Q.*, art. 6056).

**167.** If he refuse or neglect to comply with the provisions of the preceding article, he may be sued by the corporation to render such account before any competent court, and may be in such action condemned to render account and to pay damages for such refusal or neglect.—He must be condemned to pay the sum which he has admitted to be due, or which he has been declared to owe, together with all such other sums as he ought to have debited himself with or which the court holds him accountable for, with interest in every case, at the rate of twelve per cent, by way of penalty and the costs of suit.—Every such judgment carries with it coercive imprisonment if the same has been demanded in such action of account.

**168.** The secretary-treasurer of every local municipal council is bound, between the first and twenty-first days of January in each year to transmit to the provincial secretary a return, showing:—1. The name of the corporation;—2. The estimated value of the taxable real estate;—3. The estimated value of the real estate



## (ANSI and ISO TEST CHART No. 2)



1653 East Main Street  
Rochester, New York 14609 USA  
(716) 482 - 0300 - Phone  
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not subject to taxation ; — 4. The estimated value of the property declared liable to taxation, by article 710 ; — 5. The number of persons paying taxes ; — 6. The number of arpents of valued land ; — 7. The rate of assessment in the dollar imposed for all purposes whatsoever ; — 8. The value of the property of the corporation ; — 9. The debentures of the corporation ; — 10. The amount of taxes collected within the year, including the amount for the county council ; — 11. All other sums collected ; — 12. The amount of arrears of taxes ; — 13. The capital amount due to the municipal loan fund ; — 14. The amount of interest due upon such loans ; — 15. All other debts ; — 16. The amount raised by loan within the year ; — 17. The amount received from the government under the seigniorial act ; — 18. The interest paid on debentures ; — 19. The expenditure for salaries, and other expenditure for municipal government ; — 20. All other expenditure ; — 21. The number of persons resident in the municipality ; — 22. Any other statement which the lieutenant-governor in council may require (*R. S. Q.*, art. 6057).

**168a.** The secretary-treasurer of every county council is bound, in the month of January in each year, to transmit to the provincial secretary a return showing ; — 1. The name of the corporation ; — 2. The value of the property belonging to the corporation ; — 3. The debentures of the corporation ; — 4. The capital amount due to the municipal loan fund ; — 5. The amount of interest due on such loans ; — 6. All other debts ; — 7. The amount received from the government under the seigniorial act ; — 8. All other revenues ; — 9. The interest paid on debentures ; — 10. The expenditure for salaries, and other expenditure for municipal government ; — 11. All other expenditure ; and — 12. Any other statement which the lieutenant-governor in council may require. (*R. S. Q.*, art. 6058).

**168b.** The provincial-secretary is bound to make, a compiled statement by counties of the reports made in virtue of the two preceding articles with a summary of such reports, by counties, and to submit the same to

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the legislature, within the first fifteen days of the next session. (*Id.*).

**169.** Every secretary treasurer or clerk of a council of a local municipality or of a village, town or city council, who neglects or refuses to comply with the provisions of article 168 and furnish all the information set forth in the form prescribed by the lieutenant-governor in council, or by the provincial secretary, if such forms have been addressed to him by the provincial secretary in the course of the month of December preceding, is liable to a fine of not less than fifty and not more than two hundred dollars, in addition to the costs. (*Id.*, art. 6059).

**170.** All actions, claims or demands against the secretary-treasurer, resulting from his administration, are prescribed in five years from the day in which such action, claims or demands originated.

**171.** The office of the secretary treasurer is established in the place where the sessions of the council are held, or in any other place fixed, from time to time, by resolution of the council; provided the same be not in an hotel, inn, or place of public entertainment in which intoxicating liquors are sold. (*R. S. Q.* art. 6060).

**172.** The secretary-treasurer and the assistant secretary-treasurer are also officers of all courts established in the province, and may be dealt with as such by them, whenever such courts deem it necessary.

## SECTION II.

### OF THE AUDITORS.

**173.** Every municipal council is bound to name one or two auditors in the month of March of each year.

**174.** The auditors enter on their functions as soon as they are sworn to discharge well and faithfully the duties of their office.—They remain in office until the entry into office of their successors.

**175.** No one can be appointed an auditor who is unable to read and write.

**176.** The auditors are bound, in the month of February in each year, and whenever the council requires, to make an examination and a report respecting all accounts of the corporation, and all accounts relating to any subject falling within the jurisdiction of the council. (*R. S. Q.* art. 6061).

### SECTION III.

#### OF APPOINTMENTS BY THE LIEUTENANT-GOVERNOR.

**177.** Whenever a municipal council has allowed the prescribed delay to expire without making the appointment of any officer, which it is bound to make in accordance with the provisions of this code or of its by-laws, the lieutenant-governor in council may make such appointment, with the same effect as if it had been made by the council.—This article does not apply to the secretary-treasurer. (*Ibid.* art. 6062).

**178.** In the event of such omissions on the part of the council, the secretary-treasurer, or, in his default, the head of the council, is bound without delay, to notify the lieutenant governor thereof by letter addressed to the provincial secretary.—Any rate-payer of the municipality may give this information to the lieutenant-governor.

**179.** All appointments made by the lieutenant-governor must be notified to the head or to the secretary-treasurer of the council, by letter from the provincial secretary; and the secretary-treasurer is bound at once to inform the person appointed thereof, by special notice.

**180.** The lieutenant-governor in council can appoint to municipal offices, only those persons who are eligible for the offices which they are called upon to fill. (*R. S. Q.*, art. 6063).

**181.** The lieutenant-governor may revoke any appointment of a municipal officer made by him; and, if he deems it necessary, replace such officer by another.

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## SECTION IV.

## MISCELLANEOUS PROVISIONS.

**182.** The council in addition to those whom it is bound to appoint, may appoint all such other officers as are necessary to carry into effect its orders and the provisions of this code.

**183.** Municipal officers, in office at the time of the coming into force of this code are maintained in their offices, until they are placed under the provisions of this code.

**184.** If the place of any municipal officers becomes vacant, such vacancies must be filled by the council within the thirty days next following.

**185.** Every appointment or removal of a municipal officer made by the council, is made by resolution of the council; such resolution must be communicated without delay, by the secretary-treasurer to the person who is referred therein.

**186.** Every municipal officer who is bound to take the oath of office, before entering upon his duties, must do so within the fifteen days which follow the notice of his appointment. In default of his so doing, he is deemed to have refused to discharge the duties of the office to which he is appointed, and is liable to the penalties prescribed for such refusal.—He may, nevertheless, until the vacancy caused by his refusal be filled up, enter upon his functions and exercise the same, if he is capable of doing so, without prejudice to costs of proceedings instituted against him.

**187.** Any certificate attesting that an oath of office has been taken by any municipal officer, must be filed without delay, in the office of the council by the person who has taken such oath.

**188.** No act, duty, writing or proceeding, executed in his official capacity, by a municipal officer, who holds office illegally, can be set aside solely from his so holding such office illegally.

**189.** Every municipal officer may be removed by the council that appointed him. Any municipal officer,

appointed by the lieutenant-governor, may be, in like manner, removed by the council under which he is acting, provided always that such removal be approved by the lieutenant-governor.

**190.** Every officer appointed to replace another, holds office only for the remainder of the time for which his predecessor was appointed.

**191.** Every municipal officer who has ceased to discharge the duties of his office, is bound to deliver within eight days next following, at the office of the council, all the moneys, keys, books, papers, insignia, documents, and archives belonging to such office (*R. S. Q.*, art. 6064.)

**192.** If any municipal officer dies, or absents himself from the province, his representatives are bound, within one month from such death or absence, to deliver at the office of the council, the moneys, keys, books, papers, insignia, documents, and archives belonging to the office so held by him (*Id.*, art. 6065.)

**193.** The corporation is entitled in addition to any other legal recourse whatsoever, to recover by process of revendication, from such officer or his representatives, all such moneys, keys, books, insignia, or archives, with costs and damages—Every judgment rendered in any such action may be enforced by coercive imprisonment against the person condemned, whenever such imprisonment is demanded by the action.

**194.** The corporation may exercise the same rights and obtain the same remedy against all other persons having in their possession, and refusing to deliver up such moneys, keys, books, insignia, and archives.

**195.** Every person who refuses or neglects to obey any lawful order of any municipal officer, given in virtue of the provision of this code or of municipal by-laws, incurs for each offence a penalty of not less than one or more than five dollars, saving cases otherwise provided for.—Every person who hinders or prevents or attempts to hinder or prevent, a municipal officer in the exercise of his functions, incurs for each offence a penalty of not less than two nor more than ten dollars and is further

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responsible for all damages caused by him towards those who have sustained them.

**196.** Every municipal officer in whose hands is deposited or filed any document whatsoever, is bound, on demand, to give a receipt therefor, under the penalty prescribed in article 103.—Should the document deposited or filed form part of the archives of the council, it is the duty of the municipal officer, with all possible speed, to file it among them, under the same penalty.

**197.** Whenever an act must be executed by more than two municipal officers, it may be validly executed by the majority of such officers save in special cases otherwise provided for.

**198.** The council cannot, in any manner, discharge or exempt its officers for the performance of the duties imposed by this code, except in particular cases where such power is conferred upon it.

**199.** The corporation is responsible for the acts of the officers of the council, in the executions of the functions in which they are employed, and also for all damages resulting from their refusal to discharge or negligence in discharging their duties, saving its recourse against such officers. (1)

**200.** Municipal officers are liable for their acts or in damages arising from their refusal or neglect to discharge their duties, to the corporation only; save in so far as penalties incurred by them are concerned, which penalties may be recovered according to the rules of the second title of the third book. (2)

(1) *Jugé*: Qu'une corporation municipale est responsable des dommages causés par des hommes de police, par suite d'une arrestation mal fondée et malicieuse. *Alphonsine Noël vs. La Cité de Montréal*, R. L. 19. P. 704.

(2) *Jugé*: Que le maire est un officier municipal dans le sens de l'article 200 C. M. *Morin et Gagnon*. 9 R. L. 673.

*Jugé*: Qu'une corporation municipale n'a pas d'action en garantie pour malversation, malice ou mauvaise foi, mais seulement une action en dommages. *Leclerc vs. La Corporation de la paroisse de St-Joachim de la Pointe Claire & Valois et al.* 7 L. C. J. 33.

## CHAPTER III.

OF PERSONS BOUND TO ACCEPT MUNICIPAL OFFICES, AND  
OF THOSE INCAPABLE OF OR EXEMPT FROM  
DISCHARGING THEM.

## SECTION I.

## OF PERSONS BOUND TO ACCEPT MUNICIPAL OFFICES.

**201.** Whosoever is capable of discharging any municipal office in the municipality, and is not exempted, from so doing, is bound to discharge such office if he is thereunto appointed, and to perform all the duties thereof, under the penalties prescribed by law.—No one, however, is bound to accept or to continue in the discharge of the office of secretary-treasurer.

**202.** Every male resident of full age in a municipality, not declared disqualified by a provision of this code, is capable of discharging a municipal office.

## SECTION II.

## OF PERSONS DISQUALIFIED FOR MUNICIPAL OFFICES.

**203.** The following cannot be appointed to or fill municipal offices:—1. Minors;—2. Persons in holy orders, and the ministers of any religious denomination—3. Members of the Privy Council;—4. The judges of the court of queen's bench, of the superior court, and of the court of vice-admiralty, district or police magistrates and sheriffs;—5. Officers on full pay of Her Majesty's army or navy, and the officers or men of the provincial police force; 6. Keepers of taverns, hotels or houses of public entertainment, or persons who have acted as such within the twelve preceding months—(1). 7

(1) Held: That section 6 of article 203 of the municipal code which renders keepers of hotels or places of public entertainment incapable of serving as municipal officers applies only to those carrying on such occupations within the municipality.

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Traders licensed for the exclusive sale of intoxicating liquors. (as amended by 52 Vict. cap. 54. s. 1).

**204.** Whosoever has no domicile or place of business in a municipality is incapable of exercising any municipal office of such municipality except those of secretary-treasurer, auditor, valuator or special superintendent. (*R. S. Q.* art. 6066.)

**205.** No person receiving any pecuniary allowance or other consideration from the corporation for his services, or having directly or indirectly, by himself or his partner, any contract or interest in any contract with the corporation, can be appointed a member of the council of the said corporation, or act as such.—Nevertheless a shareholder in any incorporated company, which has any contract or agreement with any corporation, is not disqualified from acting as a member of the council of such corporation.—The word "contract" used in the first provision of this article does not extend to any lease, nor to any sale or purchase of lands, nor to any loan of money, nor to any agreement respecting any of these acts. (1).

**206.** Other disqualifications, relative to certain municipal offices, are prescribed in the provisions respecting these offices.

**207.** Whoever has been appointed to any municipal office for which he becomes disqualified during his exercise of such office, is bound to give without delay, at the office of the council, a notice alleging the reason of his disqualification and tendering his resignation.—Until such notice is given, such person is deemed to have continued in the exercise of such office, and is liable to all penalties, prosecutions and other rights of actions set forth in his code.

**208.** If the disqualification of a person appointed to a municipal office or holding the same is notorious or sufficiently established, the council may by resolution

(1) *Jugé*: Qu'un échevin de la Cité de Montréal qui vend à un entrepreneur des matériaux pour exécuter un contrat avec la cité, se rend inhabile à conserver son siège d'échevin.

*Stephens vs. Hurteau et la Cité de Montréal.* R. L., 19, p. 38.

declare the office of such person vacant, saving any recourse on the part of the person appointed. The vacancy must then be filled in the ordinary manner and within the delay prescribed. (1)

### SECTION III.

#### OF PERSONS EXEMPT FROM MUNICIPAL OFFICES.

**209.** The following persons are not bound to accept any municipal office, nor to continue to hold the same:—1. Members of the Senate, of the House of Commons, of the Executive Council and the Provincial Legislature;—2. All civil functionaries, the employees of the Federal and Provincial Legislature, and the officers of the militia staff;—3. Advocates, notaries, provincial land surveyors, physicians, apothecaries and teachers, engaged in their respective professions;—4. Licensed pilots and persons engaged in navigation;—5. Any miller, being the only person employed as such in a mill;—6. Persons of over sixty years of age;—7. Gaolers and keepers of houses of confinement or correction or of reformatories;—8. All persons employed on iron or wooden railways. (2).

**210.** Any person, having discharged any municipal office, during the two years next preceding, may refuse to accept any office whatever under the same council during the two years next after such service.

(1) *Jugé*: Qu'il n'y a que les vacances créées par incapacité qui doivent être prononcées avant d'être remplies.—*Paris vs. Couture* 10, Q. L. R., 1.

*Jugé*: Que le conseil d'une ville incorporée ne peut déclarer le siège d'un conseiller vacant, sans lui donner, au préalable, un avis des procédés. (Statut de Québec de 1876, 40 V., ch. 29, s. 96, § 97 Statuts Refondus de Québec, art. 4273 et 4274.) *La ville de La-chute vs. Burroughs*, 18, R. L. p. 1.

(2) *Jugé*: que les employés du bureau des mesureurs de bois sont des fonctionnaires civils dans le sens de cet article, et comme tels exempts des charges municipales. *La Corporation de St-Romuald, vs. McNaughton*, 8 Q. L. R., p. 336.

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**211.** Any person, actually engaged in an office under any municipal council, may, while he is discharging the duties of such situation, refuse to accept any other office under the same council.

**212.** Any person, who has paid a penalty for refusal to accept any municipal office, is exempt from filling any office whatsoever, under the same council, during the period for which he had been appointed.

**213.** Any person, who has been appointed to a municipal office from which he is exempt, or who while filling any office becomes exempt, and desires to avail himself of such exemption, is bound to lodge in the office of the council, a special notice to that effect, within the fifteen days following the notification of his appointment, or upon the day when he becomes exempt from filling such office.—In default of his so doing, he can no longer claim his exemption.

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## CHAPTER IV.

### OF MUNICIPAL NOTICES.

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#### SECTION I.

##### GENERAL PROVISIONS.

**214.** Every notice given, under the provisions of this code or of the orders of a municipal council, or for municipal purposes, must be drawn up, and published or served in accordance with the formalities prescribed in this chapter.

**215.** Every notice so given is either special or public.—The public notice must be in writing, but the special notice may be given either in writing or verbally, except in particular cases, in which a special notice must be given in writing. (*R. S. Q.*, art. 6067).

**216.** All notices in writing, must contain;—1. The name of the municipality, when such notice is given by

an officer or by the head of such municipality;—2. The names and signature of the person who gives it, and his official capacity;—3. A sufficient description of those to whom it is addressed;—4. The place where it was made and the time when it was made;—5. The object for which it is given;—6. The place, day and hour in which those summoned to answer such notice, must do so.

**217.** Public notices are published; special notices are served.

**218.** Every copy of a notice in writing, which must be served, published, posted up or read, is attested either by the person who gives such notice, or by the secretary-treasurer of the corporation under whose control such person acts.

**219.** The original of every notice in writing must be accompanied by a certificate of publication or of service.—The original of such notice and the certificate which accompanies it must be filed by the person who has given it in the office of the council, to form part of the municipal records.

**220.** The certificate is drawn up by the person who published or served the notice; it must contain:—1. The residence, name and signature of the person who has given it, and his official capacity;—2. The description of the manner in which the notice was published or served;—3. The place, day and hour of publication or of service.—The truth of the facts set forth in such certificate must be attested under the oath of office of the person giving it, if such person has taken an oath and if not by his special oath.—This certificate is written either on the original notice or on a paper annexed thereto. (Amended by 52 Vict., cap. 54, s. 2.)

**221.** In the case of a special notice given verbally the affirmation under oath of the person who served such notice, takes the place of the certificate of service; this affirmation is only required in case of contestation and must contain the object of the notice.

**222.** Every owner of land or rate-payer, domiciled without the limits of a municipality, may, by a special

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notice filed in the office of the council, appoint an agent to represent him for all municipal purposes.

**223.** Any person who has acquiesced in that which is required by a notice, or who has in any manner whatsoever become sufficiently acquainted with its tenor or object, cannot thereafter avail himself of the insufficiency or informality of such notice or of the omission of its publication or service.

## SECTION II.

### OF SPECIAL NOTICES.

**224.** Every special notice must be drawn up or given in the language of the person to whom it is addressed, unless such person speaks a language other than French or English.—The special notice addressed or given to any person who speaks neither the French nor the English language, or who speaks both of these languages, is given to him in either language.

**225.** The service of a special notice given in writing, is effected by leaving a copy of the notice with the individual to whom it is addressed, in person, or with a reasonable person at his domicile or at his place of business, even when it is occupied by him in partnership with some other person; except in cases where the service is made by mail.

**226.** Every special notice in writing addressed to an absent proprietor or rate-payer, who has appointed an agent residing in the municipality, must be served on such agent, in the same manner as on a resident proprietor.—If an agent, resident in the municipality, has not been appointed, every such notice is served by lodging in the post-office of the locality, a copy thereof in a sealed and registered envelope addressed to the absent proprietor or rate-payer or to any other agent he may have appointed.

**227.** A special verbal notice is given by the person who should give it, or on his behalf, to the individual

to whom it is addressed, in person, or to a reasonable person at his domicile, or at his place of business, provided such individual is domiciled within the limits of the municipality.—If such individual is absent, the special verbal notice intended for him is either communicated to his resident agent, if he has appointed one, or is given to himself personally or to a reasonable person, at his domicile, or at his place of business, if not, the notice must be communicated by post as a special notice in writing.

**228.** No one is bound to give a special notice to any proprietor absent, who has not appointed an agent, unless such proprietor has made known his address in writing by filing the same in the office of the council.

**229.** Special notices may be served between the hours of seven o'clock in the morning and seven o'clock in the evening, and even upon holidays.—Special notices, however, cannot be served at places of business except upon juridical days, and between the hours of nine in the morning and four in the afternoon.

**230.** If the doors of the domicile or place of business, where service of a special notice in writing should be made, are closed, or if there is no reasonable person therein, service is effected by affixing a copy of the notice on one of the doors of the domicile or place of business.

**231.** The intermediate delay after a special notice, dates exclusively from the day on which such notice was served.

### SECTION III.

#### PUBLIC NOTICES.

**232.** The publication of a public notice for local municipal purposes is made by posting up a copy of such notice at two different places in the municipality from time to time determined on by resolution of the council.—In default of localities determined upon by

the council near the place of worship, if there is a public resort, there is a notice of such church.

**233.** Within any city, town or village, any act which is prohibited upon by the posting of a notice in this article in the cities of the municipalities.

**234.** The one or more of the same notice must be published on the Sunday next following the day on which the notice was published. The notice does not invade the property of persons who are thereby incurred more than ten dollars.

**235.** In so far as the county purpose of municipalities is concerned, it is posted up in the offices of the municipalities. The officers of the municipalities may, by letter, send such local municipalities as many copies of the notice as they may think fit, provided that the same is certified that a certificate

the council, the public notice must be posted upon or near the principal door of at least one place of public worship, if any there be, and at some other place of public resort in such municipality.—In either case, if there is a Roman Catholic church, in the municipality, the notice must be posted upon the principal door of such church. (*R. S. Q.*, art. 6068).

**233.** When a rural municipality is adjacent to a city, town or village municipality incorporated under any act whatsoever, one of the localities determined upon by the council of the rural municipality, for the posting of public notices, may be situated in such city, town or village municipality.—The word "town" in this article applies to all cities or towns erected into municipalities under this code or any other law, except the cities of Quebec, Montreal and Three Rivers.

**234.** The local council may also, by resolution, fix one or more localities in the municipality, or in a neighboring city, town or village municipality, if such city, town or village municipality, forms part of the same parish or of the same township as the former, in which any public notice must be read out aloud in a distinct manner on the Sunday next, following the day on which the same was published at the close of divine service, if such service has been held.—The omission to read this notice does not invalidate the publication of the notice, but persons who were bound or who undertook to read it, thereby incur a penalty of not less than two nor more than ten dollars.

**235.** In so far as respects a public notice given for county purposes, the same is published in all the local municipalities to the inhabitants whereof it is addressed. It is posted up and read in the same manner as public notices given for local purposes in such municipalities.—The officers of the county council giving such notice, may, by letter, order the secretary-treasurer of each such local municipality, after having transmitted to him as many copies of such notice as are requisite, to provide that the same be posted up and read as required, that a certificate of the publication thereof be trans-

mitted to them without delay under the usual penalties.

**236.** Every time a notice is ordered to be published in one or more newspapers, such notice must be inserted in newspapers published at least once a week in the county, if any there be, if not, in newspapers of the district, or of the neighboring district, if no newspapers are published in the first district —The same rule applies when such notice must appear in two newspapers published in different languages.

**237.** No notice can be inserted in English and in French in newspapers published in one of these languages only.

**238.** Every public notices convening any public meeting or for any object whatever, must be given and published seven clear days before the day appointed for such meeting or other proceeding, except in cases otherwise provided for.

**239.** Except in cases otherwise provided for, the intermediate delay after a public notice, dates from the day on which such notice has been made public, in virtue of article 232 or of article 235; if it is ordered that the notice must be published in a newspaper, the intermediate delay dates from the day of the first insertion of such notice; if the notice is published in several newspapers upon different days, the intermediate delay dates from the day of the first insertion made in the newspaper which published such notice last. In all cases the day on which the notice was made public does not count.

**240.** Public notices are applicable to and binding upon proprietors or rate-payers domiciled out of the municipality, in the same manner as they are upon residents, except in cases otherwise provided for.

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## CHAPTER V.

## OF THE LANGUAGES TO BE USED IN THE COUNCIL AND IN MUNICIPAL PROCEEDINGS.

**241.** In the sessions of council, whoever has right to be heard, may use either the French or the English language.

**242.** The books, records and proceedings of every municipal council are kept, and all certificates of publication or service, and every other document produced or filled in the office of the council, are written in either the French or the English language.

**243.** In any municipality for which there is no order in council, in virtue of the tenth section of the consolidated municipal act of Lower Canada or of the following article, the publication of every notice, by-law, resolution or order of the council, by posting, reading aloud, or insertions in the newspapers, must be made in the French and English languages.—In every local municipality, for which there is such an order in council, the publication of every notice, by-law, resolution or order of a county-council, and of every notice from the secretary-treasurer of the council, by poster, by reading or in the newspapers, may be made only in the language prescribed in such order in council, in place of being made in English and French. (*R. S. Q.*, art. 6069). (1)

**244.** The lieutenant-governor, by an order in council, upon a petition being made to him to that effect by any municipal council, may declare that the publication of any public notice, by-law, resolution or order of the council, in such municipality, except such as are required to be made in the *Official Gazette* of the province, shall be made thereafter in one language only. Such language is determined by the said order in council.—The resolution upon which the petitioner of the council is made cannot be adopted until after a public notice to

(1) *Jugé*: Que les avis peuvent être publiés dans une seule langue dans les municipalités où, avant le code municipal, un ordre du gouverneur en conseil l'autorisait. *O'Shaughnessy vs. La Corporation de Ste-Clothilde de Horton*. 11, Q. L. R., 152.

that effect has been given to the inhabitants of the municipality.—A copy of such order by the lieutenant-governor in council, is transmitted without delay to the secretary treasurer of the municipality to which it applies and also to the secretary-treasurer of the county council. (Amended by 52 Vict., cap. 54, s. 3).

**245.** The provincial secretary must publish the order in council in the Quebec Official Gazette; and from the date of such publication, every public notice, by-law, resolution or order of the council may be published solely in the language ordered thereby except in the Official Gazette of the province. — Nevertheless, the simultaneous use of any other language does not render the document published in such language invalid.

### TITLE III.

#### PARTICULAR RULES APPLICABLE TO THE COUNTY CORPORATIONS.

#### CHAPTER I.

#### OF THE COUNTY COUNCIL.

#### GENERAL PROVISIONS.

**246.** The county council is composed of the mayors in office of all the local municipalities in the county which are subject to the provisions of this code. Such mayors bear title, in the council, of "county councillors."

**247.** The head of the council is called the "warden," and is chosen from among the members who compose the council.

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The Corporation Junction Railway 11 L. N., pp. 370 a

## SECTION I

## OF THE WARDEN.

**248.** The warden is appointed by the members of the county council, during the month of March in each year.—In a county municipality, newly established, the appointment of the first warden takes place at the first general session of the council held after the corporations is organized, or at the special session convened for that purpose in conformity with article 257.

**249.** When the office of warden becomes vacant, the council must proceed to the appointment of a new warden at the next general session, or sooner at a special session convened for that purpose. (1).

**250.** Whenever the county council allows the delay for the appointment of a warden to expire without making such appointment, the lieutenant-governor may make the appointment with the same effect, according to the rules laid down in articles 177, 178, 179, 180 and 181.

**251.** The warden holds office from his entry into

(1) *Held:* 1o That although the municipal code contains no provision to that effect, the warden of a county can resign his office, and that such resignation becomes complete and affective by its acceptance by the County Council.

2o That in the absence of all enactment in the municipal code of a mode in which resignation should be made, no particular form is required; and that the offer of resignation may be made by a warden verbally at a session of the County Council, and then entered by the secretary-treasurer on the minutes of the proceedings.

3o That the power to appoint a warden implies the right to accept his resignation and name his successor.

4o That the acts of a "de facto" warden in possession and performing the duties of the office, are binding upon the corporation, and cannot be set aside solely by reason of the illegal exercise of the office.

5o That a municipal corporation may ratify the unauthorized acts of its officers, or the acts of persons assuming to be its officers, but which are within its corporate powers, and that such acts thereupon become binding upon the corporation and cannot afterwards be impeached by it under pretence that they were done without authority.

The Corporation of the County of Pontiac vs. The Pontiac, Pacific Junction Railway Company and the Provincial Treasurer of Quebec  
11 L. N., pp. 370 and 371.

the same until the appointment of his successor.  
(Amended by 52 Vict., cap. 54, s. 4.)

**252.** Repealed by 52 Vict. cap. 54, sect. 5.

**253.** The appointment of a warden made by the council may be objected to and contested by the members of the council and by no one else.—Such contestation is begun, tried and decided in conformity with the procedure set forth in chapter seven of title four of this book.

**254.** Whomsoever has been appointed to the office of a warden, and refuses illegally to accept such office, incurs a penalty of forty dollars.

**255.** In every newly organized municipality, until the appointment of a warden has been made, and in every other municipality, during any vacancy in the office of warden, the duties of such office are discharged by the registrar of the county, saving the provisions respecting the presidency at the council board.

## SECTION II.

### OF THE SESSIONS OF COUNTY COUNCILS.

**256.** The ordinary or general sessions of county councils are held on the second Wednesday in each of the months of March, June, September and December, any by-law in force at the time of the coming into effect of this code to the contrary notwithstanding (1.)

**257.** In a newly organized county municipality a special session of the council must be held as soon as possible after the organization of the corporation.—Such first session is convened by the registrar of the county,

(1) *Jugé*: Que la nomination des délégués de comté peut être légalement faite à une session spéciale précédant la session générale du deuxième mercredi de mars, si à cette session spéciale il a été procédé à la nomination du préfet; que rien dans le code municipal n'oblige le conseil de comté à faire la nomination des délégués à l'assemblée générale (arts. 256, 261, 262, C. M.)

Corporation de la paroisse de Ste-Philomène et al., et Corporation de la paroisse de St. Isidore. 31 L. C. J., p. 37.

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**258.** The session of the council are held in the chief place of the county.—If, at the time of the convocation of the first session of the council by the registrar, the chief place has not been determined upon, such first session is held at the place chosen by the registrar, and the council continue to hold its sittings there until the chief place has been fixed upon.

**259.** The quorum of the council is five, if the members composing it number eight or over, and, if less, the majority is the quorum, (R. S. Q., art 6070.)

**260.** The notice of convocation of the special sessions of the county council, as well as the notice of adjournment in the case prescribed by article 139, must be given to the members of the council at least ten days before the day fixed for the session, or the resumption of the adjourned session.—Such notice may be forwarded by registered letter through the post; the postage thereof being prepaid.

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## CHAPTER II.

### OF COUNTY DELEGATES.

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#### SECTION I

##### GENERAL PROVISIONS.

**261.** The delegates of every county corporation are three in number.—These delegates exercise the powers and fulfil the duties which devolve upon them in virtue of this code, in conjunction with the delegates of other county corporations concerned.

**262.** The warden is *ex-officio* one of the county delegates.—The two other delegates are appointed by the council from amongst its members after the entry into the office of each new warden. They remain in office un-

til their successors are duly installed, even if they have ceased to form part of the council, unless, if in the latter case, they have been replaced under the provisions of the following article. (*R. S. Q.*, art. 6071).

**263.** Whenever any one of the delegates dies, or becomes incapacitated from attending to his duties during two consecutive months by absence, sickness or any cause, or refuses to fulfil such duties during a like period, the council appoints another delegate in his stead, at the first session held after such death, or delay of two months. If one of the delegates ceases to form part of the council, his successor must be appointed, without delay, by the council.

**264.** If the council neglects or refuses to appoint the delegates whom it is bound to appoint under the two preceding articles, within thirty days after a demand made upon it to that effect, such delegates may be appointed, by the lieutenant-governor in the manner set forth in articles 177, 178, 179, 180 and 181; subjects, however, to the provisions of article 101.

**265.** (Repealed by *R. S. Q.*, art 6072).

## SECTION II.

### OF THE BOARD OF DELEGATES.

**266.** The board of delegates is composed of the delegates from each of the county municipalities, of which the inhabitants or some of them are interested in any work or matter which comes under the jurisdiction of the councils of such municipalities.

**267.** The board of delegates sits, for the purpose of taking into consideration and deciding matters within its jurisdiction, whenever required so to do, or, whenever it deems necessary, in following the formalities prescribed for the summoning of the meeting.

**268.** The delegates meet at the time and place indicated in the notice of meeting given to them.

**269.** The meeting of the board of delegates is con-

vened, upon the order of the board of delegates, held in the council. — selected by the council, who convened, 54, s. 6).

**270.** A delegate, or about to be elected, require the approval of the municipality delegates, in order to be convened, following.

**271.** The delegate who called the meeting, secretary of the council, has been called, secretary-treasurer, members are the council. If the two delegates, secretary of the council, must be the delegates, municipalities, proceedings of the council, all other documents, council whose office of the council. — The secretary of the council, forward to the county municipality board of delegates.

**272.** Three delegates form a quorum.

**273.** The delegates preside in the case of an equality of votes, the chairman, the delegates, by lot.



vened, upon a requisition in writing, by two members of the board or on the order of the council of one of the county municipalities.—Such meeting is convened and held in the same manner as a special session of a county council.—The place where such meeting is held is selected by the members or by the secretary-treasurer who convenes the same. (Amended by 52, Vict., cap. 54, s. 6).

**270.** Any person interested in a question submitted or about to be submitted to the board of delegates may require the secretary-treasurer of one of such county municipalities to convene a meeting of the board of delegates, if a meeting of such board has not already been convened, to be held within the fifteen days following.

**271.** The secretary-treasurer of the county council who called the meeting is, in virtue of his office, the secretary of the board of delegates.—If the meeting has been convened by two members of the board, the secretary-treasurer of the council whereof such two members are the delegates is the secretary of the board.—If the two members belong to different councils, the secretary of the board is appointed by the delegates and must be the secretary-treasurer of one of the county municipalities.—The secretary keeps minutes of the proceedings of the delegates, and deposits the same with all other documents of the board in the archives of the council whose officer he is, and he forwards a copy to the office of each of the other county councils interested.—The secretary-treasurer of each county councils shall forward to each local council interested within the county municipality, a copy of every decision of the board of delegates. (*R. S. Q.* art. 6073).

**272.** Three of the delegates summoned to the meeting form a quorum of the board.

**273.** The meeting is presided over by any one of the delegates present, chosen among themselves.—In the case of an equal division of votes, in their choice of a chairman, the chairman is chosen from among them by lot.

**274.** Every disputed question is decided by the vote of the majority of delegates present including that of the chairman. — In the event of an equal division of votes, the chairman has also the casting vote. (1.)

**275.** Articles 100 and 102 apply also to all documents, orders or proceedings of the board of delegates. — Articles 97 and 103 are also applicable to the board of delegates.

## TITLE IV.

### RULES COMMON TO EVERY LOCAL MUNICIPAL CORPORATION.

#### CHAPTER I.

##### OF THE LOCAL COUNCIL.

#### SECTION 1.

##### GENERAL PROVISIONS.

**276.** The local council is composed of seven councillors elected by the electors of the municipality, in the manner hereinafter set forth, or appointed by the lieutenant-governor where no election has taken place.

**277.** The office of municipal local councillor lasts three years, except in the cases of articles 116 and 279.

**278.** At the first general municipal election held after the coming into force of this code, as well as at the first general election held in every local municipa-

(1) *Jugé*: Que si tous les membres du bureau des délégués présents ne votent pas, la décision doit être déclarée nulle et irrégulière; que dans le cas où la décision est annulée, à raison du défaut de votation de tous les délégués présents, la cour saisie de l'appel ne rendra pas le jugement que le bureau aurait dû rendre, mais annulera la décision donnée, et laissera les parties agir suivant que de droit, pour amener de nouveau le procès-verbal pour homologation, devant le bureau des délégués. La Corporation de la paroisse de St-Alexandre vs. Mailloux et al. 7 R. L., 417.

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lity erected thereafter, or in which there is no council in operation, seven councillors must be elected, or, in default of election, appointed, and they go out of office and are replaced in the manner set forth in the following article.

**279.** Of the seven councillors elected at such election or appointed by the lieutenant-governor in default of an election; —1. Two must be replaced at the time of the next general municipal election; —Two others at the same period in the year which follows that lastly mentioned; —3. And the three last, also at the same period in the following year.—And so on, in such manner that two local councillors must be elected or appointed two years consecutively, and three every three years.

**280.** The councillors mentioned in paragraphs one and two of the preceding article must be selected by lot at a session of the council, in the month of December preceeding the month of January in which they must be replaced; in default of this being done, the retiring councillors are chosen by lot by the presiding officer of the election in presence of the municipal electors or are designated by the lieutenant-governor, when they are to be replaced by him.—No election or appointment can take place to fill the office of such councillors until they have been so selected by lot or designated. (*R. S. Q.*, art. 6074).

**281.** The head of the local council is called the mayor.—He is also known and designated as "mayor of the council," or "mayor of the corporation," or "mayor of the municipality," or simply as "mayor," when the name of the municipality, of the council, or of the corporation is sufficiently indicated in the document.

**282.** Every local councillor remains in office from the taking of his oath of office until the time of the general municipal election, at which he is to be replaced, and not beyond that period.

## SECTION II.

## OF PERSONS DISQUALIFIED FROM ACTING AS COUNCILLORS.

**283.** No one can be appointed a member of the council of a local municipality, nor act as such, if he does not reside within the limits of such municipality or if he does not hold his place of business therein, and if he does not possess therein, in his own name or in the name and for the benefit of his wife as proprietor, real estate of the value of at least four hundred dollars, or if at the time of his election he is not a municipal elector.—On a demand in writing, made before the council by a member of such council, or by a ratepayer to any councillor present, such councillor must, within eight days, give in writing and under oath, a declaration of qualification, containing the description of the real estate on which he bases his qualification and deposit it in the office of the council. (*R. S. Q.*, art., 6075) (1).

**284.** Nevertheless, any person domiciled in a

(1) *Jugé* : Que, sous les dispositions du ch. 10, articles 997 et suiv. et 1017 C. P. C. un requérant qui fait émaner, en terme, un bref de *quo warranto*, ne peut procéder hors du terme, mais doit procéder durant le terme de la Cour. *Henderson vs. Loranger*. 15 L. O. J. 143.

*Jugé* : Que le seul fait qu'un conseiller a laissé son domicile ou sa place d'affaires dans la municipalité rend sa place vacante. *Loiseau vs. Lacaille*. 2 R. C. 236.

*Jugé* : Que le maire d'une ville ne peut sous les dispositions de la section 49 du ch. 29 des statuts de Québec de 1876, 40 Vict. intitulé : "Actes des clauses générales des Corporations de ville" se qualifier sur une propriété dont il a passé promesse de vente à un tiers avec tradition et possession actuelle à ce tiers.

*Lachapelle vs. Lanctot*. 15 R. L., p. 559.

*Held* : That an alderman cannot qualify on the property of a commercial partnership existing between him and an other during the existing of such partnership. *Girard vs. Rousseau* 3 M. L. R. (s. c.) 298.

*Jugé* : Que la qualification exigée par la loi des conseillers municipaux doit être considérée au moment même de son élection; notamment, un candidat déqualifié au moment de sa mise en nomination par le non paiement de ses taxes, peut être qualifié une heure après, lors de son élection s'il les acquitte dans l'intervalle et alors son élection sera maintenue.

*Bouvier vs. William alias Chagnon*. 4 C. L. R., p. 381.

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village, town or city municipality incorporated by any law whatever, may, if he possess the other necessary qualifications, be a member of the council of a rural municipality which is adjacent to the municipality in which he is domiciled, provided always, that he does not fill any municipal office in the municipality in which his domicile is situated.

**285.** No one actually presiding at an election of councillors can be elected councillor at such election.

### SECTION III.

#### OF SESSIONS OF THE COUNCIL.

**286.** In every newly organized municipality, the first session of the council is held at the time and place indicated by the warden of the county, in the notice of appointment which he addresses to the person whom he appoints to preside at the first election of the municipality.—If the councillors or some of them have been appointed by the lieutenant-governor, such first session is held at the time and place fixed upon by the person to whom the letter communicating the appointment of the councillors has been addressed.—Until the appointment of the mayor, such first session is presided over by one of the councillors who compose the new council.—Such session is an ordinary session of the council.

**287.** Ordinary or general sessions of the council take place, also, on the first Monday in each month, unless it be otherwise provided by the council in virtue of article 611.

**288.** The councils sits at the place selected for the first session, in virtue of article 286, until by resolution it shall have fixed upon some other place.

**289.** Four members form a quorum of the council.

**290.** The notice of convocation of every special session of the local council, as well as the notice of adjournment in the case prescribed by article 139, must be given to the members of the council at least two days before the day fixed for the session or the resumption of the adjourned session.

## CHAPTER II.

## OF MUNICIPAL ELECTIONS.

**291.** Every person who, at the moment he exercises such rights and privileges, comes within the following conditions, is a municipal elector, and as such has the right to vote at the election of local councillors, and to exercise all the rights and privileges conferred on municipal electors by the provisions of this code, subject to article 497:—1. He must be of the male sex, have attained the age of majority, and be a British subject;—2. He must have been in possession, in the municipality in which he seeks to exercise the right of an elector, either in his own name or in the name and for the benefit of his wife, as appears by the valuation roll in force, if there is one, as proprietor of real estate of the actual value of at least fifty dollars, or as resident, tenant, farmer or lessee or as occupant by any title whatsoever, of real estate of the annual value of at least twenty dollars:—3. He must have paid all the municipal and school taxes due by him at such period, or at a previous period which any council may fix by by-law, provided that such date be not fixed before the fifteenth of December.—His name must be entered in the valuation roll, if there is one in force in the municipality, either as proprietor, lessee or occupant. (1)

(1) *Held* that to have right to vote at municipal elections, under 40 Vict., ch. 29, it is not only necessary that the name of the voter be on the roll on which the voting takes place, but such voter must have when he votes all the qualifications required to be an elector; 2. That the electors whose name were on the roll and who were at the time of the vote qualified as proprietors, tenants or occupants of the same properties but in different quality, or of other properties in the same ward, value to the amount required to give the right of vote, had right to vote; 3. That the vote of an elector who has not paid all his scholar taxes is not to be annulled, if it is very doubtful whether he owed more and if it is due to a mistake on the part of the secretary treasurer of the schools if he had not all paid them in proper time.—*Dostaler vs. Couture*, 11, R. L. 109.

*Held*.—That a scholar tax is a school tax within the meaning of art. 291 of the Municipal Code.—*Auclair vs. Poirier*, 28 L. C. J. 231..

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## CHAPTER III.

## ELECTIONS OF LOCAL COUNCILLORS.

## SECTION I.

TIME OF HOLDING GENERAL ELECTIONS; NOTICE  
REQUIRED THEREFOR.

**292.** The general elections for all local municipalities take place every year, on the second Monday of January, at ten o'clock in the morning. (1)

**293.** In every newly erected local municipality, the first general election of councillors must be held at the same hour on the day fixed by the warden of the county, which day shall not be less than fifteen nor more than thirty days, after the territory falls within the conditions required to form a new municipality, in the case of articles 29, 31, 35 and 37; and in the case of articles 32, 37a and 39, the first general election must be held, in the same manner, on a day which shall not be less than fifteen, nor more than thirty days, after the date of the publication of the resolution. — The subsequent general elections of such municipality take place at the period fixed in the preceding article. (*R. S. Q.*, 6077).

**294.** Public notice of each general election, in every local municipality, must be previously given by the secretary-treasurer or by the mayor, announcing such election, and calling together a general meeting of the electors of the municipality, at the time and place indicated, for the purpose of electing their councillors. — In the case of the first election subsequent to the erection

(1) *Held* :— That the absence of the secretary-treasurer from the municipal office during the week preceeding the election, and the impossibility resulting therefrom for the electors of paying their taxes and thereby acquiring the right to vote, is not a ground for annulling an election, if this absence be justified by good reasons and is exempt of fraud, and if, in fact, only one elector came to pay his taxes and could not, by reason of this absence, pay them and thereby qualify himself to vote.— *Morrier vs. Rasconi*, 7 R. L. 140.

of a new local municipality, the notice must be given by the warden of the county.

**295.** The omission to give such public notice does not prevent the meeting of the municipal electors from being held for such election, except in a newly erected municipality; and each of the persons who have neglected to give such notice within the prescribed delays, incurs a penalty of not less than five or more than twenty dollars. (*R. S. Q.*, art. 6078). (1)

## SECTION II.

### OF THE OFFICER PRESIDING AT THE ELECTIONS.

**296.** The election of local councillors is presided over by a person appointed to do so by a resolution of the local council. He may be one of those members of the council who do not go out of office at the time. — If no one is appointed to preside at such election, or if the person appointed is absent, the secretary-treasurer of the council is *ex-officio* the presiding officer at the election. (2).

**297.** The first election of a newly organized municipality is presided over by a person appointed for that purpose by the warden of the county.

**298.** If, at the time fixed for the election, the person who should preside thereat and the secretary-

(1) Que le fait qu'aucun avis n'aurait été donné en langue anglaise ne rend pas nulle l'élection quand personne ne souffre du défaut de cet avis et qu'aucun préjudice n'est établi. *Marquis vs. Couillard* 10 Q. L. R. 98.

(2) *Jugé*: Que le fait que le secrétaire-trésorier aurait été nommé par le conseil, pour agir comme président de l'élection n'a pas l'effet de le rendre incompetent, mais qu'elle rend son autorité plus forte au lieu de la diminuer. *Marquis vs. Couillard*. 10 Q. L. R. 98.

*Jugé*: Que le choix d'un président fait à l'unanimité par l'assemblée, nonobstant la présence du secrétaire-trésorier, est valide et régulier, si la personne choisie n'est pas électeur, la loi présument alors un acquiescement. *Legault vs. Paiement*. 2 R. O. 235.

*Jugé*: Que l'assistant-secrétaire-trésorier a le même droit de présider l'assemblée que le secrétaire-trésorier. *Morier vs. Rasconi*, 7, R. L., 140.

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treasurer are both absent, or if neither has been appointed, the meeting is presided over by the senior justice of the peace, or, in the absence of a justice of the peace, by any person at the meeting chosen by the majority of electors present.

**299.** The person presiding at the election cannot vote thereat, except in the case specified in article 321.

**300.** The person presiding at an election of councillors is a keeper of the peace from eight o'clock in the morning of the day on which the meeting of municipal electors is held, until nine o'clock in the morning of the day which follows the close of the election. He possesses in this respect all the powers of justices of the peace, and may exercise them throughout the whole municipality.

**301.** The presiding officer at the election may moreover, for the purpose of preserving peace and public order: 1. Swear in as many special constables as he deems necessary;—2. Require the assistance of all justices the peace, constables, and other persons residing in the municipality, by verbal or written order;—3. Commit on view to the custody of a constable or of any other person, for a period of not more than forty-eight hours, any one breaking the peace or disturbing public order;—4. Cause such offender, upon summary conviction, to be imprisoned in the common gaol of the district, or in any house or other place of detention within the limits of the municipality of the county, for a period not exceeding ten days. (*R. S. Q.*, art. 6079). (1).

**302.** Within the three days next after the close of the election the officer presiding must give, to each of

(1) *Held:* 1. That the presiding officer of a meeting held for the election of municipal councillors, under the provisions of the *M. C.* has not the right in virtue of s. 4 of art. 301 to put in jail by an order written by himself, the persons who disturb the meeting by cries and threats to the presiding officer; and if he does it, he is subject to damages for false imprisonment; 2. That it was not sufficient in this case of having prepared immediately the warrant of arrest against plaintiff, but it should have been executed presently; 3. That the presiding officer of said meeting had the right of having the plaintiff imprisoned only after summary conviction.—*Trepanier vs Cloutier*, 9 L. N. 174.

the councillors elected, special notice of his election.— If he is the presiding officer at the first election of a newly erected municipality, he must, in the special notice given to the councillors elected, designate the time and place of the first session fixed upon by the warden of the county. If the latter has not fixed the time or place for the session the presiding officer himself does so.

**303.** Within the eight days next after the close of the election, the presiding officer must make the result of the meeting known to the warden or to the secretary-treasurer of the county council; if there has been an election of councillors, he must give at the same time the names, surnames, quality and residence of each of the councillors.

**304.** If a poll has been held, the presiding officer must, within the said delay of eight days, deliver up the poll books kept by him at such election at the office of the local council, to be lodged among the archives of such council.

**305.** Every person who has been appointed, whether by the warden, by the council, or by the court under article 361, to preside at an election of local councillors, is at liberty to decline such office, on his transmitting within four days from the notification of his appointment special notice of his refusal to the warden, the council, or the court which appointed him. In default of his so doing he is no longer at liberty to refuse such office.

**306.** The services of presiding officer at an election are given gratuitously, nevertheless, the council must reimburse all expenses necessarily incurred by him on account of the election, and may, moreover, allow him an indemnity for his services.

### SECTION III.

#### MEETING OF MUNICIPAL ELECTORS.

**307.** The meeting of municipal electors is held at the place where the local council holds its sessions, and

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must be opened at the hour of ten in the forenoon of the day fixed for the election, and the proceedings of such meeting shall be reduced to writing either on the books of the proceedings of the council or in a document which must form part of the archives of the council.—Nevertheless the council of a rural municipality whose sessions are held in a municipality of a city, of a town or of a village, in virtue of article 106, may, by resolution, fix upon another place for the holding of such meeting.—If it is the first election after the erection of a new municipality, the meeting is held at the place designated in the notice. (*R. S. Q.*, art. 608<sup>1</sup>.)

**308.** The presiding officer, after having opened the meeting, requests the electors present to propose those persons whom they wish chosen as local councillors.

**309.** The presiding officer is bound to receive and propose as candidates, the names of all persons submitted to him, whether verbally or in writing, by at least two of the municipal electors present.—Nevertheless, no one can be proposed for election unless at the time, his name and surname, as well as the names and surnames of his proposers are given. (1)

(1) *Held:* That the fact that those who proposed the candidates were disqualified to vote does not annul the election if no objection was made where they were put in nomination nor at the opening of the poll and if the votation took place regularly. *Monier vs. Rasconi*, 7 R. L. 140.

*Held:* 1. That the putting in nomination of candidates by two electors, who give neither their names, or surnames, but who are notoriously known as such, (in this case they were the *cure* and the member of the Commons for the county, residing in the municipality since many years) must be received by the presiding officer; 2. That it is the duty of the presiding officer to ask the names of the mover and seconder.—*Boileau vs. Proulx*, 2 R. C. 236.

Mistakes of the officers which in no way affect the right to vote or the exercise of this right, do not carry nullity unless the law declares it; and the rule is that all omission which did not prejudice the free exercise of the right to vote cannot invalidate an election.

The law does not require and could not reasonably require under penalty of disqualification, that the candidates be present at the election to be examined as to their qualification.—*Bureau vs. Normand*, 5 R. L. 40.

*Jugé:* Que la demande de mise en nomination d'un candidat à

**310.** If, after one hour has elapsed from the opening of the meeting, as many candidates as there are councillors to be elected, or fewer candidates than the required number, have been proposed for election as councillors, the elections declared at an end, and the presiding officer proclaims the candidates proposed for election duly elected. (1)

une élection municipale doit être faite directement au président de l'assemblée; ceux qui demandent la votation doivent se présenter et donner formellement leur nom au président. *Tessier vs. Meunier* 32 L. C. J. 76.

(1) *Jugé*: Que du moment que le président d'une élection de conseillers municipaux a déclaré élus les sept candidats proposés, l'élection est alors terminée, et qu'il n'est pas permis à des électeurs survenus depuis, de proposer ensuite de nouveaux candidats, et au président d'accorder un poll; et que si un poll est tenu, dans ce cas, ce sera illégalement, et qu'aucune personne votant à cette élection, sans avoir les qualités requises par la loi pour lui donner le droit de voter à une élection municipale, n'encourra, par ce fait, l'amende de \$20, décrétée par la section 62 du ch. 24, S. R. B. C. *Melançon vs. Sylvestre*. 14 L. C. J. 217.

*Jugé*: Que malgré les dispositions des articles 310, 311 et 349 du Code Municipal, le président d'une élection a le droit de proclamer, avant qu'il se soit écoulé une heure depuis l'ouverture de l'assemblée, un candidat mis en nomination, qui n'a pas d'opposant, et de procéder à la tenue du poll et à l'enregistrement des voix des électeurs pour les autres candidats. *Huneau vs. Magnan*. 2 R. O. 234.

*Jugé*: Que le fait de priver illégalement une personne de l'exercice d'un droit d'électeur municipal, donne lieu à un recours en dommages-intérêts, et que l'officier public dont la conduite révèle mauvaise foi, dans l'exécution des devoirs de sa charge, n'a pas droit à un mois d'avis, avant l'institution de l'action en dommage. *Bernatchez vs. Hanond*. 7 Q. L. R.

*Jugé*: Que lorsqu'un candidat à la charge de conseiller est déclaré élu unanimement, il doit être proclamé élu immédiatement avant la votation ouverte pour les autres candidats, c'est-à-dire à l'expiration de la première heure après le commencement ou l'ouverture de l'assemblée pour l'élection. *Lizotte vs. Lalancette*. 10 R. L. 480.

*Jugé*: Que si aucune objection n'est faite à la qualification des électeurs, lors de la mise en nomination et de la demande d'un poll, le président ne pourra plus, après qu'il aura accordé le poll, et lorsqu'il se préparera à prendre les votes, revenir sur sa décision, et déclarer que la mise en nomination n'est pas régulière, pour défaut de qualification de certains électeurs qui ont proposé les candidats. *Laraway vs. Brimmer*. 6, L. C. J. 164.

*Jugé*: Que lorsqu'une élection municipale a eu lieu par acclamation, il n'est plus au pouvoir du président d'accorder un poll à la demande d'électeurs arrivés après la proclamation, et que, s'il le

**311.** C more candidates there are councillors to be elected, or fewer candidates than the required number, have been proposed for election as councillors, the elections declared at an end, and the presiding officer proclaims the candidates proposed for election duly elected. (1)

fait la tenue de l'élection, il n'a pas le droit d'accorder un poll à la demande d'électeurs arrivés après la proclamation, et que, s'il le

*Jugé*: (Sous l'art. 311, qui déclare que la tenue d'une élection a lieu d'après le nombre des candidats, par les articles 319, 320, 321 et 322, et que si l'élection a lieu à la Cour qu'il y a des candidats privés de l'exercice du droit de vote, *Boileau*. 6 L. C. J. 217.)

*Jugé*: Que le fait de priver illégalement une personne de l'exercice d'un droit d'électeur municipal, donne lieu à un recours en dommages-intérêts, et que l'officier public dont la conduite révèle mauvaise foi, dans l'exécution des devoirs de sa charge, n'a pas droit à un mois d'avis, avant l'institution de l'action en dommage. *Bernatchez vs. Hanond*. 7 Q. L. R.

*Jugé*: Que si un candidat à la charge de conseiller est déclaré élu unanimement, il doit être proclamé élu immédiatement avant la votation ouverte pour les autres candidats, c'est-à-dire à l'expiration de la première heure après le commencement ou l'ouverture de l'assemblée pour l'élection. *Lizotte vs. Lalancette*. 10 R. L. 480.

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*Jugé*: Que des élections municipales peuvent avoir lieu par acclamation, et que, s'il y a des candidats privés de l'exercice du droit de vote, *Boileau*. 6 L. C. J. 217.)

*Jugé*: Qu'un candidat à la charge de conseiller est déclaré élu unanimement, il doit être proclamé élu immédiatement avant la votation ouverte pour les autres candidats, c'est-à-dire à l'expiration de la première heure après le commencement ou l'ouverture de l'assemblée pour l'élection. *Lizotte vs. Lalancette*. 10 R. L. 480.



**311.** One hour after the opening of the meeting, if more candidates have been put in nomination than there are councillors to be elected, the presiding officer, upon a requisition by five electors present, proceeds without delay to hold a poll and to enregister the votes of the electors present.—Nevertheless, if among the candidates put in nomination there are any to whom there is then no opposition, the presiding officer decla-

fait la tenue de ce poll étant illégale ceux qui y voteraient sans avoir la qualification voulue par la loi ne sont passibles de l'amende imposée en pareil cas. *Bezières vs. Turcotte.* 2 R. L. 129.

*Jugé:* (Sous les dispositions de la s. 29, ch. 6, des S. de Q. de 1878, 41 V., qui décrètent, en amendant la s. 37 du ch. 15 des S. R. B. O. que la tenue d'un poll, pour le choix des commissaires d'école aura lieu d'après le mode prescrit pour les élections des conseillers municipaux, par les arts. 308, 309, 310, 311, 312, 313, 314, 315, 317, 318, 319, 320, 321 et 325, C.M.,) que cinq électeurs doivent demander un poll, et que si l'élection a eu lieu sous des circonstances qui font croire à la Cour qu'il y a eu surprise chez les électeurs, et qu'ils ont été privés de l'exercice de leur droit de vote, elle sera annulée. *Sauvé vs. Boileau.* 6 L. N. 257.

*Jugé:* Que le fait, par une corporation municipale, de priver un contribuable de son droit de vote, donne lieu à un recours en dom-mage, de la part du contribuable. *Martin vs La Cité de Montréal.* 6 L. N. 23.

*Jugé:* Que si un électeur ayant droit à deux votes n'en donne qu'un, il est présumé n'avoir voulu voter que pour un seul des can-didats; que son droit est alors épuisé, et qu'il ne peut revenir voter une seconde fois pour un autre; mais que le président de l'élection, après avoir reçu le second vote illégal, n'a pas le droit de le retran-cher, ce droit n'appartenant qu'à la Cour. *Venner vs. Archer.* 1 Q. L. R. 283.

*Jugé:* Que le vote d'un électeur municipal enregistré après que l'électeur a refusé de prêter le serment requis par cet article, est nul et sera déclaré tel par la Cour. *Dolbec vs. Portelance.* 6 Q. L. R. 17.

*Jugé:* Que des charretiers, engagés par l'agent d'un candidat à une élection municipale, pour transporter des électeurs au bureau de votation pourront recouvrer en justice contre l'agent et le candidat, conjointement et solidairement, la valeur de leurs services, et que ce contrat n'est pas illégal, la loi ne l'ayant pas déclaré tel. *Ramage vs. Lencir.* 15 L. C. J. 219.

*Jugé:* Qu'un certain nombre d'électeurs peuvent convenir entre eux que l'on votera par liste ou *ticket*, et que les voix peuvent être enregistrées pour six candidats, quoique l'électeur n'ait voté que pour un seul candidat, savoir celui dont le nom était en tête du *ticket*. *Huneau vs. Magnan.* 2 R. O. 234.

res such candidates elected, and the poll is held for the other candidates only. (1)

**312.** In the absence of a demand from five electors present to the effect that a poll be held, the presiding officer declares elected councillors the candidates who have the majority of the electors present in their favor, after having established such majority by counting the electors who are in favor of such candidate; twenty electors present may, however appeal from his decision, by requiring a poll to be held. (*R. S. Q.*, art. 6081).

**313.** The presiding officer, if a poll is opened, must enter or cause to be entered, in a book kept in accordance with the conditions hereinafter prescribed, and in the order in which they are given, the votes of the electors, by entering therein the names and qualities of each. (2)

(1) *Held*: That the omission of the quality of the electors in the poll-book is not a cause of nullity of the election, if no injustice has resulted therefrom; because this formality does not bear on the vote itself and those not essentially affect the election.—*Morrier vs Rasconi*, 7 R. L. 140.

*Held*: That in the case of a municipal election, the delay to put the candidates in nomination is of one hour, from the time of the opening the meeting, and that it is not necessary that a demand be made in writing for the holding of a poll and the registering of the votes of the electors — *Marquis vs Couillard*, 10 Q. L. R. 68.

After the hour was over for the nomination, the presiding officer counts the electors present favorable to both candidates, and whilst he is doing this, five electors ask for a poll; the presiding officer refuses a poll and commences over again to count the electors present favorable to each candidate, notwithstanding the protests of the five electors who persist in asking a poll, and he proclaims one of the candidates elected;—*Held* that this election is null.—*St George vs Gadoury*, 9 L. N. 50.

(2) *Jugé*: Que si, à une élection municipale, il est proposé plus de candidats qu'il n'y a de conseillers à élire, le président de l'élection doit constater d'abord quel est celui des candidats proposés qui a la majorité des électeurs présents, et qu'il est illégal d'opposer deux candidats l'un à l'autre, pour savoir quel est celui des deux qui a la majorité des électeurs présents, lorsqu'il y a plus de deux candidats de proposés;

Que lorsqu'un poll a été accordé, sur la demande des électeurs, le président doit procéder à la tenue du poll, et qu'il ne lui est plus permis, de proclamer un candidat élu, conformément à une entente

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**314.** Every elector may vote for as many candidates as there are councillors to be elected in the municipality, or in the ward if the municipality is divided in virtue of article 617.

**315.** Any person tendering his vote, must take the following oath or affirmation, before the presiding officer, if required so to do by him, by an elector, by any candidate, or by the representative of any candidate:—I swear (or I affirm) that I am entitled to take part in this meeting, I am duly qualified to vote at this election, that I am at least twenty-one years of age, that I have paid all municipal and school taxes due by me, and that I have not already voted at this election: So help me God.—If such elector refuse to take such oath, his vote must be refused.

**316.** Any person voting at an election of municipal councillors, without possessing at the time of giving his vote the qualification of a municipal elector, incurs a penalty of twenty dollars.

**317.** Whenever the presiding officer does not understand the language spoken by one or more electors, he must appoint an interpreter, who, before acting, takes before such person presiding, the following oath:—I swear (or affirm) that I shall faithfully translate the oaths, declarations, affirmations, questions and answers which the person presiding shall require me to translate, respecting this election: So help me God.

**318.** Each page of a poll-book must be numbered in writing, and initialed by the person presiding at the election.

**319.** If an elector take the required oath, or refuse to take the same, or if objection is made to his vote, mention of each of these facts must be made in the poll-book.

qui aurait lieu entre ces candidats, si, surtout, quelques électeurs s'y opposent;

Que si un conseiller est élu illégalement il ne pourra ensuite résigner et être nommé par le conseil, et que, si cette résignation et cette nomination ont lieu, la Cour déclarera l'élection et la nomination nulle, mais n'ordonnera pas une nouvelle élection. Charland et al. Stenson vs. La Corporation de Wotton. 16 R. L. 60.

book, in the following terms,—“sworn”—“refused”—or “objected to” as the case may be.

**320.** The presiding officer at the end of the first day's polling, and at the close of the election, but before proclaiming the candidates elected, must certify, under his signature, on the poll-book, the total number of votes entered, from the first to the last entry in the book and also the total number of votes given for each of the candidates.

**321.** In case of an equal division of votes, in favor of one or more of the candidates, the presiding officer is bound to vote, even although he is not a municipal elector, under a penalty of not less than twenty or more than fifty dollars.

**322.** If, at four o'clock in the afternoon of the first day of the poll, the votes of all the electors present have not been polled, the meeting is adjourned to the hour of ten in the forenoon of the following day, for the purpose of proceeding with the polling of such votes.

**323.** The election must be closed at four o'clock in the afternoon of the second day.—In a municipality having more than six hundred electors, however an additional voting day shall, subject to article 322, be allowed for every three hundred electors exceeding the number of six hundred. (*R. S. Q. art. 6082.*)

**324.** If at any time after the votes have commenced to be polled, either on the first or on the second day of the said election, one hour elapses without any votes having been polled, the presiding officer must close the election.—Nevertheless, if notice under oath is given to the presiding officer that an elector has been, within the hour last past, prevented from approaching the poll by violence, the election cannot be closed until the expiration of one hour after such violence has ceased.

**325.** At the close of the election, the presiding officer declares such of the candidates as have obtained the largest number of votes, duly elected councillors.

# APPOINTMENT

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## CHAPTER IV.

## APPOINTMENT OF LOCAL COUNCILLORS BY THE LIEUTENANT GOVERNOR.

**326.** Whenever ;—1. A meeting of the municipal electors for the election of local councillors has not been held within the time prescribed by law, or by public notice, if the election is to be held in virtue of article 361 or the meeting having been held, no election has been had :—2. Or an insufficient number of councillors has been elected ;—Then it is the duty of the presiding officer at such election, or of the secretary treasurer of the corporation, to inform the lieutenant governor of such fact or facts by a letter addressed to the provincial secretary, within fifteen days after the time fixed for such election.—Any municipal elector may give such information to the lieutenant governor.

**327.** The lieutenant governor, as soon as such information is communicated to him, appoints from among the qualified persons in the municipality, an equal number of councillors to the number required to be elected in the case of the first paragraph of the preceding article, or a sufficient number of councillors to complete the number of councillors required in the case of the second paragraph of the same article.—When the municipality is divided into wards, in virtue of article 617, the lieutenant governor can only appoint councillors for those wards in which no election has taken place.

**328.** The letter of the provincial secretary, wherein the councillors appointed by the lieutenant governor are named, is forwarded to the secretary treasurer of the municipality or to one of the councillors so appointed,—The person receiving such letter must give, without delay, to every councillor named in it, special notice of his appointment.—If such appointment is that of the first councillors of a newly organized municipality, the person receiving such letter must, in the special notice given to each councillor appointed at the same

time, appoint a time and place for the first session of the council.

**329.** The lieutenant governor may cancel any appointment of councillors made by him, and, if he deems advisable, replace such councillors by others.

## CHAPTER V.

### THE APPOINTMENT OF MAYOR.

**330.** At the first session after any general municipal election, or after any general appointment of councillors by the lieutenant governor in the absence of an election, the members presents, if they form a quorum, appoint as mayor of the corporation any one of the councillors possessing the necessary qualifications.

**331.** So soon as the appointment of mayor has been made, the secretary treasurer must give a special notice of the fact to the warden of the county, as well as to the person appointed if he was not present at the election.

**332.** If the appointment of a mayor has not been made by the councillors within fifteen days after such first session, the lieutenant governor may make the appointment with the same effect, in conformity with the rules prescribed by articles 177, 178, 179, 180 and 181.

**333.** The mayor remains in office from the moment he takes the oath of office until the appointment of his successor. (1)

**334.** Whosoever is appointed mayor and refuse illegally to accept or discharge the duties of such office, incurs a penalty of thirty dollars.

(1) *Held*: 1. That the Mayor of a local municipality remains in office until his successor is elected notwithstanding that his term of office as councillor was expired.

2. That as such Mayor he has the right to preside at the first meeting of Council called after the annual election, and to give his casting vote for the election of a new Mayor. *Masson vs. Leahy*. 11 L. N., 202.

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**335.** Nobody can be appointed mayor nor act as such, unless he is able to read and write. (1)

**336.** If it happens that amongst the members composing the council no one is able to read and write, one of such councillors, previously selected by lot, must be without delay replaced, by the appointment, by the lieutenant-governor, in the ordinary manner, of a person able to read and write, and possessing the other qualifications required for the office of member of such council.

## CHAPTER VI.

### VACANCIES IN THE LOCAL COUNCIL.

#### SECTION I.

#### VACANCIES IN THE OFFICE OF COUNCILLOR.

**337.** The office of councillor becomes vacant in each of the following cases:—1. When a person has been appointed councillor who is exempt from serving as such or when a person discharging the office of councillor becomes exempt during his occupancy thereof, and such person has, in either case, complied with article 213;—(2)

2. In the case of refusal to accept or continue to perform such office;—3. When the councillor's domicile and place of business are no longer within the limits of the local municipality, unless such domicile or place of business is situated in a neighboring municipality forming part of the same parish or township as the municipality.

(1) *Held*; that the provision of art. 335 M. C. requiring the mayor of a municipality to be able to read and write, must be largely and beneficially construed, and that a man who can read and write only with difficulty is not sufficiently proficient to hold the position of mayor.—*Turgeon vs Noreau*, 9 Q. L. R., 363.

(2) *Jugé*: Que la vacance mentionnée dans les articles 337 et 339 M. empêche le conseiller de siéger comme conseiller, du moment que des procédés pour remplir cette vacance ont été faits. *Dubuc vs Fortin*. 11 R. L. 114.



**340.** If the council refuse or neglect to fill up a vacancy in the office of councillor within fifteen days after special notice of the occurrence of such vacancy has been lodged at the office of the council by any elector, such vacancy is then filled up by the lieutenant-governor, in conformity with the rules prescribed for the appointment of councillors when no election has taken place.

**341.** Whenever, in consequence of any vacancies in the council, there are less than four councillors remaining in the office, such vacancies can only be filled by the lieutenant-governor, in the usual manner.

## SECTION II.

### VACANCIES IN THE OFFICE OF MAYOR.

**342.** The office of mayor becomes vacant in any of the following cases :— 1. When the seat as councillor of such mayor becomes vacant ;—2. When the resignation of such mayor is accepted by the council, or when his office has been declared vacant under article 208 ;— 3. In the case of refusal to accept, or to continue to fill the office of mayor, or that of county councillor ;— 4. When a mayor has been appointed who is exempt from the office, or when the person filling the office of mayor becomes exempt during his occupancy thereof, and who has, in either case, complied with article 213 ;—5. When the mayor, after his appointment, has by the law become incapacitated for the office of mayor or county councillors, and has complied with article 207.

**343.** If the seven councillors remain in office, the election of the new mayor take place at the first session of the council held after the occurrence of such vacancy, in conformity with article 330.— If, on the contrary, there are vacancies in the office of councillor such election takes place at the first session of the council, held after all the vacancies in the office of councillor have been filled up.

**344.** If the appointment of a new mayor is not made at the time fixed by the foregoing article, it can be made by the lieutenant-governor in conformity with the ordinary rules.

**345.** The council may at any time appoint a pro-mayor, who, in the absence of the mayor or when the office is vacant, discharges the duties of the mayoralty, with all the privileges, rights and obligations thereunto attached.

## CHAPTER VII.

### CONTESTED APPOINTMENTS OF MEMBERS OF THE LOCAL COUNCIL.

**346.** Any appointment of councillor made by the electors may be contested by any candidate or by five municipal electors, on the ground of violence, corruption, fraud or incapacity, or on the ground of non-observance of the necessary formalities. (1)

(1) *Held*: 1. That the election of a municipal councillor must be contested directly and that it cannot be attacked incidentally by a contestation of a resolution for which such councillor has voted; 2. That the jurisdiction given to the Circuit Court and to the Magistrate's Court by art. 348 M. C. for the contestation of the election of councillors by the electors and the nomination of the mayor by the council is, for the reasons of violence, bribery, fraud, incapacity or for want of observance of the essential formalities, exclusive of all other, and specially of that created by art. 1016, &c. C. C. P.—*Paris vs. Couture*, 10 Q. L. R., 1.

*Held* that the fact of a candidate or his agents to pay the municipal and scholar taxes of the electors, to allow them to vote in favor of such candidate, constitutes an act of bribery sufficient to render such votes null, and as a consequence to annul the election if the election is thereby affected.—*Dostaler vs. Couture*, 1 R. L., 109.

*Held*: That the payment of taxes due by an elector for the purpose of enabling him to vote on behalf of a candidate is a corrupt act. *Auclair vs. Poirier*, 28 L. C. J., 231.

*Jugé*: Que la contestation de la nomination du maire et celle des conseillers par les électeurs ne peuvent se faire que conformément aux articles 346 à 364 C. M. et non sous les articles 1016 et 1017 C. P. C. *Paris vs. Couture*; *Paris vs. Bisson et Laliberté vs. Barabé*, 10, Q. L. R. 1.

*Jugé*: Que sur une contestation d'une élection municipale, non seulement les votes entachés de corruption doivent être retranchés

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**347.** The appointment of the mayor may also be contested on the same ground by any member of the council.

**348.** The examination and decision of such contestation is vested in the Circuit Court of the district or county, or in the Magistrate's Court of the county in which the municipality is situated, to the exclusion of all other courts. (1)

**349.** Such contestation is brought before the court by a petition in which are set forth the facts and reasons alleged in support of the contestation. — The petitioners may also in their petition indicate persons who have a right to the office in question and state the facts necessary to establish such right. (2)

mais l'élection elle-même doit être annulée, s'il y a preuve suffisante de corruption générale commise par les cabaleurs et membres du comité du candidat élu, et ce, même dans le cas où, en retranchant les votes seuls, il resterait encore une majorité en faveur du tel candidat. *Parent vs. Patry, C. C. Larue J., mai 1889. 12 L. N. 370.*

*Jugé :* Que l'on peut contester l'élection d'un conseiller proclamé élu par le président d'élection, malgré qu'il ait, après avoir été proclamé élu, produit au conseil sa résignation, et malgré que le conseil, sur cette résignation ait adopté une résolution déclarant le siège vacant, et aussi malgré que le lieutenant-gouverneur ait nommé une autre personne conseiller à la place de celui qui a résigné, et qu'il n'est pas nécessaire, en pareil cas, de signifier la requête et la contestation à d'autre partie qu'à celle qui a été proclamée élue.

Que pour avoir droit de voter à une élection municipale, il faut, entre autres conditions, 1<sup>o</sup> posséder, au moment du vote, dans la municipalité, un terrain ; 2<sup>o</sup> Qu'il apparaisse au rôle d'évaluation que ce terrain est estimé à la valeur requise et 3<sup>o</sup> être inscrit sur le rôle.

Que celui dont le nom est inscrit sur le rôle, comme propriétaire d'un terrain estimé à la valeur requise, mais qui, réellement, n'a jamais possédé ce terrain, et n'a jamais été propriétaire, n'a pas droit de vote. *Vinet vs. Fletcher et al. 18 R. L. 672.*

*Jugé :* 1<sup>o</sup> Que l'élection d'un échevin du conseil de ville de la cité de Montréal, ne peut être contestée que par des électeurs dûment inscrits et habiles à voter à cette élection ;

2<sup>o</sup> Que le défaut de qualification de la part des contestants peut être invoquée par exception à la forme. *Poudrier vs. Bonin dit Dufresne. 5 M. L. R. 56.*

(1) *Held :* That there is no review of the decisions of the Circuit's Court on the contestation of elections of councillors under the provisions of the *M. C. Lacerte vs. Dufresne 9, Q. L. R., 190.*

(2) *Held :* That one may by one petition under one bail bond and in the name of only five electors contest the election of several councillors even when the reasons of contestation are not common to all the Defendants *Lawford vs. Robertson, 2, R. C., 235.*

**350.** A copy of the petition, with a notice stating the day on which the petition will be presented to the court, is served upon and left with every councillor whose appointment is contested, within thirty days from the date of such appointment; otherwise the right of contesting is forfeited (*R. S. Q.*, art. 6084.)

**351.** No such petition can be presented or received after the close of the first term of the court next following the day when each contested appointment was made.—Nevertheless, if the appointment was made within the fifteen days preceding such first term, the petition may be presented on the first day of the second term. (1)

(1) *Held*; That to be received to contest the election of a councillor the petition must be presented before the end of the first term of the court which follows the day that the contested nomination was made, if there is more than 15 days between said nomination and the end of said term.—*Lavoie vs. Hamelin*, 5, L. N., 94.

*Held* that in the district of Montreal since the statute 46 Vict., ch. 26, ss. 1 and 2, there are no more terms for the Circuit Court, and that consequently a petition contesting a municipal election, which under art. 351 M. C. must be presented during the term of the court which follows the day of the nomination, can be presented after this delay.—*Brunelle vs. Brosseau*, 8, L. N., 99.

*Jugé*: Qu'on peut se plaindre de la nullité d'une élection en représentant autant de requêtes qu'il y a de conseillers dont l'élection est contestée. *Tremblay vs. Roy*. 2. R. C. 235.

*Jugé*: Que le requérant, qui demande la nullité de l'élection pour irrégularité de l'assemblée des électeurs doit alléguer, dans sa requête, en quoi l'assemblée était irrégulière, sans quoi la cour présuamera que les formalités prescrites ont été observées. *Marquis vs. Couillard*. 10 Q. L. R. 98.

*Jugé*: Que la requête libellée pour l'émanation d'un bref de *quo warranto* qui ne fait qu'énoncer les faits, constituant l'usurpation ou l'occupation illégale d'office est suffisante, et que le requérant n'est pas tenu d'énoncer les moyens de nullité de l'élection; mais que c'est à l'intimé à justifier de son autorité à l'exercice de la charge. *Fraser vs. Buteau*. 10 L. C. R. 789.

*Jugé*: Que lorsque l'élection des conseillers municipaux a lieu dans les quinze jours précédant le premier jour du premier terme qui suit l'élection, la requête peut être présentée le premier jour du second terme. *Bourgeault et al.*, et *Dalpé et al.* 15 L. C. J. 255.

*Jugé*: Que des intervenants dans une contestation d'élection ne sont pas obligés de fournir le cautionnement que doivent donner les requérants. *Brousseau vs. Brouillet*. 2 R. C. 234.

*Jugé*: Qu'une requête contestant la nomination d'un conseiller municipal ne sera pas rejetée parce qu'elle aurait été présentée avant

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**352.** The petitioners must give security for the costs at least ten days before the petition is presented to the court; otherwise such petition cannot be received by it.

**353.** The security required by the foregoing article is put in before the clerk of the court.—The sureties must be owners of real estate to the value of two hundred dollars, over and above any incumbrances there may be on such property. One surety suffices, provided he is an owner of real estate to the required value.

**354.** Such petition is presented in open court, together with the returns of the preliminary services.

*l'expiration des dix jours, à compter du cautionnement, mais que la cour pourra permettre la production de cette requête, et ne la recevoir qu'après le délai de dix jours;*

*Qu'à Montréal, où tous les jours juridiques sont jours de termes pour la Cour de Circuit à compter du 15 janvier, une requête contestant une nomination qui aurait eu lieu le 12 janvier peut être présentée dans les trente jours de la nomination. Bourassa vs. Aubry. 14 R. L. 415.*

*Jugé :* Qu'il n'est pas nécessaire de décrire aucune propriété foncière dans le cautionnement d'une seule personne et que dans le cas d'irrégularité, la cour permettra la production d'un nouveau cautionnement. Tremblay vs. Roy. 2 R. C., 235.

*Jugé :* Que l'acte de cautionnement requis par l'article 353 du C. M. ne doit pas nécessairement contenir la désignation des biens-fonds des cautions, mais que leur déclaration énoncée sous serment dans l'acte, qu'ils sont propriétaires de biens-fonds de la valeur requise est suffisante. Bourgeault et al., et Dalpé et al. 16 L. C. J. 255 et 4 R. L. 74.

*Jugé :* Que dans le cas d'une contestation d'élection municipale, le cautionnement fourni en vertu de l'article 352, C. M., et portant que la caution est propriétaire de biens-fonds d'une valeur totale de quatre cents piastres, toutes dettes payées, est insuffisant, vu l'article 353 qui exige que la caution soit propriétaire de biens-fonds d'une valeur totale de deux cents piastres, en sus de toutes charges dont ils sont grevés. Hébert vs. Fréchette. 14 R. L. 213.

*Jugé :* Que le rôle de perception des rétributions mensuelles sera admis comme preuve suffisante de l'imposition et du défaut de paiement des taxes, lorsqu'aucune contestation n'est soulevée par ce plaidoyer spécial quant à la validité de l'imposition de telles taxes; que la rétribution mensuelle est une taxe dans le sens de l'article 291; que le paiement des taxes dues par un électeur, dans le but de le qualifier à voter en faveur d'un candidat est un acte de corruption. Auclair vs. Poirier. 29 L. C. J. 231.

*Jugé :* Qu'un conseiller municipal dont l'élection est contestée par une personne qui ne réclame pas le siège, n'a pas le droit de prétendre par une procédure récriminatoire, que, même si les votes que le requérant prétend avoir été donnés illégalement en sa faveur étaient

**355.** If the court, after having heard the parties, is of opinion that the grounds set forth in the petition are sufficient in law to have the appointments declared null, it orders proof to be adduced and the parties interested to be heard, on the day of term it deems the most convenient.

**356.** The court proceeds in a summary manner to hear and decide such contestation.—The evidence may be taken orally or in writing, in whole or in part, as the court shall order.

**357.** The court by its judgment may confirm or annul the appointment, or declare another person to have been duly elected. (1)

retranchés, il reste encore avec la majorité, vu qu'un certain nombre d'électeurs qui ont voté en faveur du candidat battu l'ont fait illégalement, et que des allégations d'une preuve récriminatoire ne peuvent avoir lieu dans une contestation d'élection municipale, si le contestant ne réclame pas le siège. *Bourassa vs. Aubry.* 14 R. L. 114.

*Jugé:* Qu'un scrutin des votes illégaux peut avoir lieu pour les deux candidats, lorsque le siège est réclamé, par le requérant pour le candidat battu, et que la requête et la défense allèguent, de part et d'autre l'illégalité d'un certain nombre de votes donnés respectivement pour le défendeur candidat élu et pour le candidat défait. *Auclair vs. Poirier.* 28 L. O. J. 231.

*Jugé:* Qu'il n'y a pas lieu à la révision d'un jugement rendu par la Cour Supérieure concernant une charge municipale. *Fiset vs. Fournier.* 3 Q. L. R., 334.

*Jugé:* Que d'après l'art. 361 C. M. une nouvelle élection sera ordonnée quand des actes de corruption, tels que le paiement des taxes dues par un électeur pour lui permettre de voter, sont prouvés. *Auclair et Poirier.* 28 L. O. J. 231.

*Jugé:* Que dans le cas du *quo warranto* le défendeur, à moins qu'il ne montre titre complet, est censé avoir usurpé la charge qu'il occupe. *Burroughs vs. Barron.* 30 L. C. J. 80.

(1) *Held:* That when the law does not declare that if one of the candidates is not qualified and is unable to sit for this reason, the other candidate, although he has not obtained the majority of votes, shall be proclaimed elected; the judge cannot order so, and, in such case, there must be a new election.—*Bureau vs. Norman,* 5 R. L., 40.

*Jugé:* 1° Qu'un conseiller municipal dont l'élection est contestée pour illégalité et fraude ne peut demander le rejet de la requête en contestation sur le principe que l'autre candidat mis en nomination contre lui n'était pas qualifié pour être élu conseiller: un tel plaidoyer peut-être rejeté sur réponse en droit.

2° Que dans une contestation d'une élection municipale sous le

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to pay the taxed and their far as registered fifteen days before the day of the election.

**359.** The court may, if it is satisfied that the person served at the election has not been duly elected, order a new election to be held.

**360.** If the court is satisfied that the person served at the election has not been duly elected, it may order a new election to be held.

**361.** If the court is satisfied that the person served at the election has not been duly elected, it may order a new election to be held.

than fifteen days before the day of the election.

**362.** Such notice, by the council, if there be no objection, may be given to the council.

code municipal, l'autre candidat d'entre les candidats a été réélu, et les autres de part et d'autre.

(1) *Held:* That if acts of corruption are proved, a new election must be held.

**358.** The court may condemn either of the parties to pay the costs of the contestation; and such costs are taxed and are recoverable against all parties to the suit and their sureties. — The judgment of the court, in so far as regards the costs, is executory against the sureties, fifteen days after a copy thereof has been served upon them.

**359.** The court may order that its judgment be served at the expense of the party against whom the judgment has been given, upon the warden or upon the registrar, and on any person it may deem proper.

**360.** If the trial of the contestation is not concluded at the close of the term of the court to which the petition was presented, the sitting judge must continue it without interruption during the vacation, adjourning from day to day until he delivers his final judgment upon the merits of the contestation.

**361.** If the judgment annuls the election of the local councillors or any one of them, without stating who should fill such offices, the court must in the same judgment order a new election to replace the councillors whose appointments are so annulled, name for that object a person to preside at such election and fix the day and hour upon which a meeting of the municipal electors is to be held. — Such day must not be sooner than fifteen nor later than twenty days from the date of the judgment. (1)

**362.** Such election must be announced by public notice, by the mayor in office, or by the secretary-treasurer, if there be no mayor in office or if the mayor is the councillor whose appointment has been annulled. — If there be neither a mayor nor a secretary-treasurer in office, the notice is given by the warden of the county,

code municipal, la preuve récriminatoire de faits de corruption par l'autre candidat doit être admise, de manière à établir lequel des candidats a été réellement élu, les votes entachés de fraude étant retranchés de part et d'autre. Surprenant et al vs. Tremblay. 11, L. N. 137.

(1) *Held*: That under article 361, M. C. a new election will be ordered if acts of corruption are proved. — Auclair vs. Poirier 28 L. C. J. 231.

as soon as a copy of the judgment has been served upon him.—The omission to give this notice prevents a meeting of the municipal editors from being held, and renders the person whose duty it is to give it, subject to the penalty imposed by article 295.

**363.** In default of the person appointed by the court, the election is presided over by the secretary-treasurer, and in default of that officer, by the senior justice of the peace of the district present at the meeting. — In other respects, the election is held and conducted in conformity with the rules and formalities prescribed in the third chapter of this title, and the councillors elected at such election are invested with the same rights, and are subject to the same obligations and penalties as councillors appointed at general elections and only remain in office for the time for which the persons whose elections have been set aside were appointed.

**364.** If the judgment of the court declares the appointment of the head of the council null and void without naming a person to replace him, the council must proceed to elect a new head within thirty days from the date of the judgment — In default of such election, the head of the council may be appointed by the lieutenant governor in the usual manner. (1)

## CHAPTER VIII.

### OF THE OFFICERS OF THE LOCAL COUNCIL.

#### GENERAL PROVISIONS.

**365.** In addition to the municipal officers which it is required to appoint in virtue of the other provisions of this code, every local council must appoint, in the month of March of every second year;— 1. Three valua-

(1) *Held*: That there is no appeal from a judgment of the Superior Court rendered in contestation of a municipal election. *Beauchemin vs. Hus*, 1, M. L. R., (S. C.) 413.

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tors, —2. A road inspector for every road division in the municipality, —3. A rural inspector for every rural division in the municipality. —4. As many public pound-keepers as it deems necessary. (*R. S. Q.*, art 6085). (1)

**366.** The valuator enters upon their duties so soon as they have made oath well and faithfully to discharge the duties of their office.—Rural inspectors and pound-keepers enter upon the discharge of their duties immediately after service of the notice of their appointment.—Road inspectors remain in office up to the first of May, and those who succeed them enter into office on that day. (*Id.* art. 6086.)

**367.** Justices of the peace are exempt from serving as road inspectors, rural inspectors, or pound-keepers.

**367a.** Every person appointed to any of the offices mentioned in article 365 of this code, who unlawfully refuses either to accept the same, or to discharge, the duties thereof incurs a penalty not exceeding twenty dollars. (*R. S. Q.*, art. 6087.)

## SECTION I.

### PROVISIONS SPECIALLY APPLICABLE TO THE SECRETARY-TREASURER OF THE LOCAL COUNCIL.

**368.** The secretary-treasurer of the local council must keep "a register of roads and water-courses," in which are entered at full length, in the order of their dates, and certified to be correct by him, all *procès-verbaux*, acts of appointment and by-laws in force respecting work to be done on the roads, bridges and

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(1) *Jugé* : Qu'un rôle de cotisation fait par trois estimateurs dont deux seulement étaient nommés légalement est nul. Rolfe et al. et la Corporation du canton de Stoke. 24 L. C. J. 213.

*Jugé* : Que la preuve qu'un inspecteur a juridiction et qualité pour agir comme tel, lorsque la qualité est niée, ne peut se faire que par la production d'un extrait des registres de la municipalité constatant que sa nomination a été légalement faite, et que la preuve verbale qu'il est reconnu et agit comme tel est insuffisante. Lemire et Cour- chène. 1 R. L. 158.

water-courses to be built and kept in repair in the municipality under the control of the local council.

**369.** He must note on the margin of every document, so registered, any amendments which are subsequently made to such document, or its repeal in the event of its being repealed.

**370.** The secretary-treasurer must perform whatever it is his duty to perform under the provisions of the law respecting the jurors' list and the list of parliamentary electors.

**371.** The secretary-treasurer must prepare in the course of the month of November in each year, a statement showing, in as many separate columns:—1. The names and qualities of all persons indebted towards the corporation of its officers for municipal taxes, as set forth in the valuation roll, if they are entered therein;—2. The amount of all municipal taxes remaining due to the corporation by each of such persons or by persons unknown;—3. The amount of municipal taxes due by each of such persons to the officers of the council;—4. The amount of school taxes due by each of such persons to the period of the drawing up of such statement, if a statement of such arrears has been lodged in time in the office of the council by the secretary-treasurer of the school commissioners or trustees;—5. The expenses of collection due by such persons;—6. The description of all real estate liable for the payment of the taxes mentioned in such statement;—7. The total amount of taxes and costs affecting such real estate for municipal or school purposes;—8. The reasons for which such sums were not collected; 9. All other information required by the council and all remarks connected therewith.

**372.** Such statement must be submitted to the council and approved of by it.

**373.** The secretary-treasurer, if he receive an order to that effect from the council, must, before the twentieth day of December of each year transmit to the office of the county council, an extract from such statement as approved by the council, containing;—1. The

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The names and qualities of all persons indebted for municipal or school taxes, imposed on the real estate possessed or occupied by such persons ;—2. The description of all lands liable for the payment of municipal or school taxes ;—3. The sum total of the taxes affecting such lands for municipal or school purposes. (*R. S. Q.*, art. 6088.)

## SECTION II.

## OF VALUATORS.

**374.** No person can be a valuator unless he possesses as proprietor, either in his own name or in that of his wife, real estate to the value of four hundred dollars, according to the valuation roll, if there is one. (1)

**375.** Valutors, in the execution of their duty, may demand the services either of the secretary-treasurer or of any other clerk.—The secretary-treasurer, or clerk, whose services has been so required, is entitled, for every day during which he is employed, to a sum not exceeding two dollars, payable by the corporation, on certificate from the valutors who employed him.

## SECTION III.

## OF ROAD INSPECTORS.

**376.** The road inspector is bound to superintend all work ordered to be done in the constructing, improving or keeping in repair of local or county municipal roads,

(1) *Jugé* : Que le défaut de qualification des évaluateurs ne donne pas lieu à une action en dommages et intérêts, de la part d'un contribuable, lorsqu'il émane contre lui une saisie exécution suivie de vente, pour cotisations scolaires basées sur leur rôle d'évaluation. *Barrette vs. Les commissaires d'école pour la municipalité de la paroisse de St-Colomban.* 7 R. L. 185.

*Jugé* : Qu'un rôle de cotisation est nul si les évaluateurs ne possèdent pas la qualification requise par la loi, ou s'ils n'ont pas prêté le serment requis ou s'ils n'ont pas signé le rôle. *Patton vs. La Corporation de St-André d'Acton.* 13 L. O. J. 12.

sidewalks and bridges, situated within the limits of his division, and to take care that such work be performed in conformity with the provisions of the law, *procès-verbaux*, or by-laws which govern it, unless he be exempted therefrom by an order of the council or of the board of the delegates under whose direction such work is being done, or unless a special officer has been appointed to superintend such work.—If any county municipal road is situated partly in one division and partly in another, it is under the joint and several superintendence of the inspectors of the two divisions.

The road inspector of the said council, or in case the said inspector is unable to act, a special officer appointed by the said council shall decide whether the road is in good or bad order before charging the proprietors with its maintenance.

The said report shall be made public by public notice and an appeal shall lie from the decision of the said inspector or special officer within fifteen days from the publication of such public notice.

The appeal shall be regulated according to the provisions of this code which apply to appeals from decisions of county councils. (52 V., c. 54, s. 4.)

**377.** Ferries are also under the superintendence of the inspector of the road division, within the limits of which they are situated, unless they have been placed by the council under the superintendence of another officer.

**378.** Every road inspector appointed for a division has jurisdiction over every person liable to perform the works under his superintendence, whether such person is domiciled within or without the limits of his division.

**379.** Whenever the inspector of a road district is, for any reason whatever, temporarily incapable of acting, the local council may appoint some person to replace him during such incapacity; in default of which the mayor must during the continuance of such incapacity, place the division under the jurisdiction of another road inspector of the municipality, by a written order served on such inspector.—Such inspector is not thereby

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released from the superintendence of the division for which he had been in the first instance appointed.

**380.** The road inspector, in so far as regards his relations to the county works, whereof he has the superintendence, is an officer of the county council.

**380a.** Whenever a road inspector is personally interested in any work or other matter within his jurisdiction, and neglects or refuses to execute or supply that which he is bound to execute or supply, as interested in such work or matter, the secretary-treasurer of the local municipality, wherein such inspector has jurisdiction, possesses in relation to such inspector the same rights, powers and obligations as the inspector himself, in relation to all persons interested in the same work or matter. — In respect of works to be performed in common, the inspector so interested is always *in mora* to fulfil the obligations attaching to such works (*R. S. Q.*, art. 6089).

**381.** Every road inspector who refuses or neglects, without reasonable cause, to perform any duty which is imposed upon him by the provisions of this code or of municipal by-laws, or which is required of him in virtue of such provisions, or to obey to orders of the local or county council, in respect of the works which are under his superintendence, incurs, in addition to damages caused for each case of neglect or refusal, a penalty of not less than one or more than twelve dollars, except in cases otherwise provided for.

**382.** Whenever any work must be performed in common upon any municipal roads or bridges, it is the duty of the road inspector of the division to notify the persons who are liable to perform such work by special notice, either by special, verbal or written notice, or by public notice, of three days: — 1. Of the time and place where such work must be performed; — 2. Of the quantity and description of materials which are required, and of the time and place where they must be provided; — 3. Of the amount of labor which each must contribute; — 4. Of the description of tools and implements required, which must be of the kinds ordinarily used by farmers in the municipality. — If the work to be performed in

common is, however, not sufficient in the opinion of the council to justify the making of a call upon the rate payers interested, the road inspector may cause such works to be performed and the costs thereof to be paid in equal proportions by the rate-payers interested in such work, as well as the costs of the collection which are taxed by the council. (*R. S. Q.*, art. 8090)

**383.** If the nature of the work demands it, he may require each of such persons to bring or to cause to be brought a certain number of horses or oxen, with proper harness, carts or ploughs, if he have them.—Every day's labor of a horse or yoke of oxen, with harness, carts or ploughs, is credited to the person who brought the same as one day's work.

**384.** It is the duty of the road inspector:— 1. To direct and superintend the execution of all such work;— 2. To fix the hour of commencing and leaving off such labor, and the time for rest and meals, so that the day may consist of ten clear hours of labor, on the spot where the work is to be done;— 3. To dismiss any person who is idle, who hinders the others from working, or who refuses to obey his orders.—He may at once fill up the place of any person who has not attended at the hour appointed for labor, or who has been dismissed, at the costs of the person so in default; such costs may be recovered by the substitute or by the inspector in the manner prescribed for the recovery of penalties imposed by this code.

**385.** The road inspector must, on resolution of the local council to that effect, procure and keep under his charge, a snow plough, a roller, an iron or steel shod scraper or other implements to be used on the municipal road in this division.—Every person who is bound to perform work on municipal roads, may be compelled by the road inspector of the division to make use of such implements as part of the road work he is bound to perform.—The use of such implements is gratuitous, and the outlay incurred for their purchase and repair falls upon the local corporation.

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the expiration of the delay granted in cases which come under the provisions of article 389, cause the removal or suppression of all obstructions and nuisances from the municipal roads, sidewalks, ferries and bridges, within the limits of his jurisdiction, by the persons who have occasioned them, or in the event of their refusal or neglect, by any other person whom he authorizes so to do, at the costs of the person in default.—Such costs are recovered in the same manner as penalties imposed by the provisions of this code, and the local corporation is answerable therefor if the person in default is without means.—If the person who occasioned such obstructions or nuisances is unknown, they must be removed at the expense of the corporation of the local municipality.

**387.** The following are deemed obstructions or nuisances:—1. Filth, dead animals, or other objects placed or left on any municipal road or bridge, or in any water-course or ditch connected with such road or bridge;—2. Any trench opening made in any municipal road;—3. The anchoring or mooring of any vessel, boat or other floating object, at the landing place of any ferry, so as to impede free approach to the beach or to a quay.

**388.** Whoever has committed any act which may have the effect of obstructing, impeding or rendering inconvenient the free passage of vehicles or foot passengers over any part of a municipal road, side-walk or bridge, or of impeding the free course of water, in connection with such works, is deemed to have occasioned an obstruction or nuisance, within the meaning of the two preceding articles. (1)

(1) *Jugé*: Que plusieurs créanciers sur une demande *ex debito* ne peuvent poursuivre ensemble pour le recouvrement de leurs dommages respectifs.

Que deux propriétaires réels dans une municipalité peuvent poursuivre par l'action populaire pour faire démolir sur une rue, un quai construit sans autorité. *Bénard vs. Bourdon*. 13 L. C. J. 233.

*Jugé*: Qu'en vertu de l'acte refondu des chemins de fer de Québec 1880, un juge de paix a juridiction pour entendre une plainte contre un chemin de fer pour obstruction d'un chemin public. Corporation de St-Joseph et la Compagnie du chemin de fer Québec Central. 14 R. L. 54; 11 Q. L. R. 193.

**389.** Whenever such obstruction arises in the course of some work duly authorized by law, by the council, or, by the road inspector, under the provisions of any by-law or resolution passed in virtue of article 476, the same is not deemed an obstruction, within the meaning of those articles.

**390.** Whenever any such duly authorized work is in course of execution on any municipal road, sidewalk or bridge, excavations and other dangerous places must be pointed out, both by day and night, in such a manner as to prevent accident, under a penalty not exceeding twenty dollars, for each day during which the provisions of this article are contravened, in addition to any damages occasioned thereby.

**391.** Whoever causes any obstruction or nuisance on any municipal road, sidewalk, ferry or bridge, or renders the use thereof difficult or dangerous, incurs for each offence, over and above the damages occasioned thereby, a penalty of not less than two or more than ten dollars.

**392.** The road inspector of the division must make a report to the council respecting any encroachments on the road, and side walks, bridges, and other municipal public works which are under his superintendence.

**393.** Every road inspector, and every person who accompanies him, or who is authorized by him in writing, may in the day-time, without previous notice enter upon any land whatever, whether occupied or unoccupied, inclosed or uninclosed, for the purpose of making a survey for any road, or upon any unoccupied land, for the purpose of searching for timber, stone or materials necessary to carry on any public work, by making compensation for actual damage done.

**394.** Every road inspector entrusted with the superintendence or direction of labor on any road, bridge, or other public work, may, by himself or by others acting under his direction, and without previous notice, enter in the day-time, to the distance of one arpent from such public work upon any unoccupied land and take therefrom any materials requisite for such work, except

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ed for ornament.

**395.** Such inspector must, as soon as possible, declare on oath, what he believes to be the value of the damage occasioned by the taking of such materials.— If the amount of damages exceeds twenty dollars, it must be assessed by the valuator of the municipality, according to rules laid down in article 902 and the following articles of the title of expropriation for municipal purposes.

**396.** The amount of damages is paid by such road inspector, out of the moneys placed in his hands for defraying the cost of such works, to the person who has suffered the damage, all municipal taxes, fine or costs due by such person to the corporation or its officers, being previously deducted therefrom. In default of such moneys, it is payable by the corporation, saving its recourse against the persons bound to perform such works.

**397.** The road inspector may, without being authorized by the council, perform or cause to be performed, the works required on any municipal street, road, by- road, side-walk, or bridge, within the limits of his jurisdiction, which have not been performed in the manner or at the time prescribed by the persons bound to perform such works.—He may also furnish or cause to be furnished, the materials which should have been furnished for such public works, and which have not been so furnished in the manner or at the time prescribed.— Nevertheless, the cost of the work performed and the materials furnished in virtue of this article, must not exceed five dollars each year for each piece of land liable for such work, unless the road inspector has previously served on the persons liable for such municipal work a special notice, either verbal or written, enjoining them to perform such work or to furnish the materials required, entered, within a delay of four days, the whole without prejudice to penalties or damages incurred by such persons by reason of their default to execute such work or to furnish such materials in the manner and within the

delay prescribed by the *procès-verbaux*, by the by-laws or by-law.—In every case, the road inspector who has performed work, or caused the same to be performed, or furnished materials, or caused the same to be furnished, under this article, must as soon as possible, inform the persons in default thereof, by a special notice, containing a statement of the amount due for such works or materials.

**398.** The value of such works or materials, with twenty per cent, in addition thereto, may be recovered by the inspector of roads, as a debt due to himself, together with costs against any person bound to perform such works or furnish such materials, in the manner prescribed for the recovery of penalties imposed by the provisions of this code. (1)

**399.** If the road inspector does not comply with the provisions of article 397, when the labor or materials required on any municipal works, in his division, have not been performed or furnished in the manner and at the time prescribed he must report thereon to the council.

**400.** The council, on such report, authorizes the road inspector to cause the work to be done or the required materials to be furnished at the cost of the corporation, by some person selected either by it or by the inspector.

**401.** The cost of such works or materials is paid on the order of the road inspector, by the secretary-treasurer of the council, and his recovered by the corporation from the persons in default, with twenty per cent,

(1) *Held*: That in an action instituted under acts 398 and 1042, M. C. for the value of work done on a by road, a justice of the peace residing in a municipality other than the one where the defendant resides, has no jurisdiction, if it does not appear by the record that there is no justice of the peace in the municipality where the defendant resides. Lambert et Lapalisse, 6 R. L. 65.

*Jugé*: Que la Cour Supérieure a juridiction pour connaître d'une poursuite pour le recouvrement d'une somme excédant \$200, pour travaux faits pour une corporation municipale sur des chemins aux frais du propriétaire, et ce nonobstant les articles 398, 401, 951 et 1042. C. M. Ross et la corporation de la paroisse de Ste-Clotilde de Horton. 11 R. L. 520.

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by-laws over and above the amount thereof, and costs, in the manner prescribed for the recovery of penalties imposed by this code. (1)

**402.** The amount of any judgment rendered in favor of the road inspector or of the corporation, on any action brought to recover the value of the works performed or the materials furnished by either the works performed or the corporation, and the twenty per cent, in addition thereto, together with interest and costs, is assimilated to municipal taxes.

**403.** In every action brought, either by the road inspector or by the corporation, to recover the value of such works or materials, the evidence of the road inspector is sufficient proof, if it is not contradicted by a witness worthy of belief, in the case where he establishes. — 1. That the required formalities have been observed; — 2. That the works have been executed, and the materials furnished; — 3. That the amount claimed is the real value of such works or materials; — 4. That the defendant is a person legally liable for the same.

**404.** The road inspector must, between the first and fifteenth days of June and October, in each year, and moreover whenever he is required by the council or mayor: — 1. Go over and inspect the municipal ferries, roads, sidewalks and bridges in his division; — 2. Mark down the state in which he finds such ferries, roads, sidewalks and bridges, and the works in connection therewith; — 3. Make note of any person who has neglected to fulfil his obligation, and prosecute him in the

(1) *Jugé*: Que si dans une poursuite par une corporation municipale, sous l'article 401 C. M., pour recouvrer du propriétaire d'un terrain le coût des travaux faits sur un cours d'eau avec vingt pour cent en sus, le défendeur plaide qu'il n'existe aucun procès-verbal légal assujettissant aucun immeuble du défendeur à aucun cours d'eau et qu'il n'existe aucun acte de répartition légale justifiant et autorisant aucune cotisation sur aucun immeuble du défendeur pour les travaux faits ou à faire dans aucun cours d'eau, il sera du devoir de la corporation non seulement de produire le procès-verbal, mais encore de faire la preuve des avis requis par la loi avant sa confection, et que, si elle ne fait pas cette preuve, il sera considéré que les avis n'ont pas été donnés et l'action sera renvoyée. La corporation des cantons de Wendover et Simpson *vs.* Tourville. 5 R. L. 47.

name of the corporation ; — 4. Make a report in writing containing the substance of the notes he has taken and the information he has obtained since his last report on every public work under his superintendence and further stating the arrears of labor unperformed or of materials unfurnished, the value in money of such labor or materials, and the penalties and costs remaining unpaid, specifying the lands in respect of which the same are due, and the owners or occupants of such lands, if known.

**405.** When a municipal bridge or one forming part of a municipal road, or a bridge over a water-course is destroyed or broken, or whenever the use thereof becomes dangerous, or whenever the use of a municipal road becomes difficult or dangerous, the mayor of the local municipality in which such bridge or road is situated, either in whole or in part whether such work is a local or a county work, may in case of urgent necessity, authorize the road inspector or any other person to reconstruct, or repair the same, or to make a safe temporary bridge or crossing, without delay, at the expense of the local corporation. — The cost of such work is recoverable by the local corporation, from the persons or corporation who are liable therefor in virtue of the laws, by-laws or *procès-verbaux*, in the manner laid down for the recovery of penalties imposed by this code ; and the amount of the judgment with interest and costs is assimilated to municipal taxes. (*R. S. Q.*, art. 6091.)

#### SECTION IV.

##### OF RURAL INSPECTORS.

**406.** Rural inspectors are bound to do whatever is required of them, in virtue of the provisions of this code, respecting public nuisances, clearances, boundary ditches or boundary fences. — They are bound to superintend all works of construction, improvement or repair, ordered upon local or county municipal water-courses, situated

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within the limits of their divisions, and to take care that such works be performed according to the provisions of the law, *procès verbaux*, or by-laws which govern them, unless they are exempted from so doing by an order of the council or of the board of delegates under whose direction such works are being executed, or unless a special officer entrusted with the superintendence of such works has been appointed. — They are also bound within the limits of the division for which they have been appointed, to perform all the other duties which are imposed upon them by the provisions of this code or by municipal by-laws. As regards the line fence and ditch to be made and maintained between two contiguous properties but which by the division line between two municipalities, are situated one in one municipality and the other in another, whether such municipalities be or be not situated in the same county, the rural inspectors of both municipalities have concurrent jurisdiction.

The foregoing provision applies whatever may be the adjoining municipalities, parishes, villages, towns, &c., and even if they are not of the same kind. (53 V. c. 3 s. 1.)

**407.** The rules laid down in articles 378, 379, 380, 380a and 381, regarding road inspectors, apply also *mutatis mutandis* to rural inspectors. — Articles 382, 383 and 384 are also applicable to such officers, when joint labor must be done on water-courses. (*R. S. Q.*, art. 392.)

**408.** The provisions of articles 397, 398, 399, 400, 401, 402 and 403, respecting the execution of work prescribed on municipal roads, side-walks and bridges, by the road inspector or by the council in the name of the corporation, upon the default of the person liable for such work, and respecting the recovery of the value of such work, apply with similar effect to work prescribed either under the provisions of this section, or prescribed on municipal water-courses, for the execution of such works by the rural inspector of the division, or by a council in the name of the corporation, upon the

default of the persons liable, and to the recovery of the value of work executed by such inspector or council.

**409.** Whenever the services of a rural inspector are required, under the provisions of the four following paragraphs of this section, in any locality situate partly within the limits of the jurisdiction of one rural inspector and partly within the limits of the jurisdiction of another, one or other such inspectors may be required to act.

**410.** Every rural inspector when required to act under the provisions of the four following paragraphs of this section, is entitled to ten cents for every hour employed in visiting the localities, as well as in managing and superintending the works, if he does not perform them himself.—He has also a right to be repaid any necessary outlay and costs incurred by him for notices, or other papers requisite, made under the same provisions.—Such costs are paid by the person whom the rural inspector finds in default. If no person is in default, they are paid by the party who demands the services of the municipal officer. In case of common or joint works, they are paid by all the parties interested, if they are all in default.—In case of refusal or contestation, they are recovered in the same manner and with the same rights and privileges as the value of municipal works performed by the road inspector.

**411.** The rural inspector whose services have been required by the municipal council, or for the benefit of the corporation, is not entitled to any fee from the latter; the council, may, nevertheless, allow him one.

**412.** Every special notice or order given by a rural inspector, may be given either verbally or in writing, saving in cases otherwise provided for. Every order given by a rural inspector is given by a special notice, subject to the provisions of article 228.

**413.** The rural inspector and any person interested may require from any possessor, tenant or occupant of any land, in the same manner as from the owner of such land, the fulfilment of every obligation imposed upon such owner in regard to clearings, boundary ditches,

boundary fence, such possessions, or, if any t

**414.** The rural inspector, for such purpose, is entitled to the expense of the work and all other expenses, such as floods and to

**415.** Who deposited upon the course, stream or water, the rural inspector of the municipality, if he has received notice to do so, to have the person who deposited such work, perform the duty of the rural inspector, because the same is a violation of the corporation.

**416.** Who deposited any filth or debris, or any other thing mentioned in the present article, or any damages, or any other thing described by article 228, the rural inspector of the municipality, if he has received notice to do so, to have the person who deposited such work, perform the duty of the rural inspector, because the same is a violation of the corporation.

**417.** The rural inspector, when required to act, is entitled to the same remuneration as the verbal requisition, the state of cultivation, by his neighbor, must attend at the required, after giving



boundary fences or water-courses, saving the recourse of such possessor, tenant or occupant, against the proprietor, if any there be.

**414.** The rural inspector must, on being authorized for such purpose by the mayor or the secretary-treasurer of the local council, make or cause to be made, at the expense of the corporation, in the snow or ice, trenches and all other works which are required to prevent floods and to facilitate the water in running off.

### § I.

#### PUBLIC NOTICES.

**415.** Whenever any filth or dead animal has been deposited upon any property whatever or in a water-course, stream or river, it is the duty of the rural inspector of the division, within twenty-four hours after he has received a special notice, either written or verbal, so to do, to have such filth or dead animal removed by the person who deposited it. If the person who has deposited such filth or dead animal is unknown it is the duty of the rural inspector, within the same delay, to cause the same to be removed at the expense of the corporation.

**416.** Whoever deposits or causes to be deposited, any filth or dead animal upon any of the localities mentioned in the preceding article, incurs over and above any damages occasioned thereby, the penalties prescribed by article 391.

### § II.

#### CLEARANCES.

**417.** The rural inspector, on either the written or verbal requisition of any owner or occupant of land in a state of cultivation, who requires a clearance to be made by his neighbor in virtue of article 531 of the civil code, must attend at the place where such clearance is required, after giving special notice of eight days in writ-

ing to the parties interested. After an examination of the locality, and on proof that such clearance is necessary and has been demanded by special notice in writing, served before the first day of the preceding month of December, he enjoins by written order that, within the thirty days next following, all shrubs which are of a nature to harm the cultivated land within an extent of fifteen feet in depth along the whole line of separation of such lands and all trees which are found within such extent, casting a shade upon such cultivated land, saving those excepted by-law, or reserved for the embellishment of the property, be cut down. (1)

**418.** Whoever refuses or neglects to obey the orders of the rural inspector relative to the clearance, incurs, without prejudice to the execution of such orders, a penalty not exceeding two dollars for each arpent in length of such clearance, for the first year, and for every subsequent year a penalty equal to double that of the preceding year, over and above all damages occasioned to the cultivated land.

**419.** The damages resulting from the refusal or neglect to make the clearance as required by the rural inspector, are established by three experts appointed as follows; one by each of the interested parties, and the third by the two experts so appointed. If one of the parties refuses to appoint an expert, he is appointed by a justice of the peace on demand of the other party.

### § III.

#### BOUNDARY DITCHES.

**420.** The rural inspector, upon the written or verbal application of any owner or occupant who demands the opening up of a boundary ditch between

(1) *Held* that a law suit for the penalty imposed by art. 418 M. C. will be dismissed, if it is not proved that the notice required by the first paragraph of art. 417 has been of eight clear days, and if the order given under the second paragraph of said art. 417 is not signed by the rural inspector in his official capacity.—*Leduc vs. Vigneau*, 12 R. L.; 214.

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his land and that of his neighbor, must visit the locality of such proposed boundary ditch, where, after an examination of the place, and a hearing of the parties interested who have received three days' special notice thereof, he orders the performance of any works which he deems necessary, and determines how and by whom they must be executed.

**421.** The rural inspector, on the written or verbal application of one of the neighbors who complains of the insufficiency or bad condition of the common or joint boundary ditch, or of the part thereof for which his neighbor is liable, must, if it is necessary, order the person in default to deepen, cleanse and repair such ditch or part of a ditch, or to do his share of such work within a fixed delay. Such delay must not exceed the time absolutely necessary to perform such work. In case the work be not performed within such delay, the inspector may authorize the complainant to do the work himself, the cost thereof to be recovered in the same manner as penalties under this code.

**422.** He may, at the same time, order the party complaining to deepen, cleanse or repair that part of the boundary ditch for which he is liable, within the same delay, if he finds such parts insufficient or in bad condition.

**423.** Whoever refuses or neglects to comply with the orders of the rural inspector given in virtue of the preceding provision of this paragraph, incurs, over and above the damages resulting from the defect or insufficiency of his ditches, and without prejudice to the execution of such orders, a penalty not exceeding one dollar for every arpent in length of such ditch, which he has to make, every fraction of an arpent being counted as an entire arpent.

**424.** Whoever obstructs or allows any boundary ditch to be obstructed in any manner whatsoever is liable to a penalty not exceeding one dollar for every day such ditch is so obstructed.

## § IV.

## BOUNDARY FENCES.

**425.** The rural inspector of the division, on the written or verbal application of any owner or occupant who demands the construction or repair, or any works necessary for the preservation of a boundary fence, between his land and that of his neighbor in virtue of article 505 of the civil code, must visit the boundary in question, where, after having heard the interested parties duly notified thereof by a special notice of three days, and examined the works required, he orders any party in default, whether complainant or not, to construct or repair his boundary fence so that it be good and firm, within the delay determined by such inspector. Such delay must be as short as possible. (1)

**425a.** In the event of the works not being executed within such delay, the rural inspector may authorize either the complainant himself or any other person to execute the works, or to cause them to be executed, and the cost thereof is assimilated to municipal taxes if it is not recovered in the same manner as penalties under the authority of this code. (R. S. Q., art., 6093).

**426.** The rural inspector cannot order the making, in a rural municipality, of a new fence, or the repairing of an old one when so dilapidated that the costs of repairing it would be equal to that of a new one, unless the party bound to do such work has received special notice in writing, to such effect, before the first day of the preceding month of December.

**427.** Article 423 relative to boundary ditches applies also to persons liable for boundary fences.

(1) *Jugé*: Qu'une corporation municipale n'a pas le droit de faire planter des bornes entre les rues et les terrains des particuliers qui les avoisinent, de manière à déterminer par là, la limite de la rue, sans avoir obtenu le consentement de ces particuliers à ce bornage, ou à défaut de tel consentement, sans avoir pris les procédés ordinaires en bornage devant les tribunaux, et une résolution du conseil à l'effet d'autoriser un délégué à aller, accompagné d'un arpenteur, planter telles bornes, est illégale et devra être déclarée telle sous l'empire des articles 997 et suivant du Code de Procédure Civile. Le Procureur Général vs. La Corporation d'Iberville. 6 R. L. 241.

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## SECTION V.

## OF POUND-KEEPERS.

**428.** Pound-keepers are bound to receive and retain in safe keeping, animals found straying on any beach, flat road or public place, or any land other than that of their owners, and impounded by the rural inspector or by any other person who finds them, until such animals are reclaimed by their owners, or sold at auction under the provisions of this section. (1)

**429.** Pound keepers are bound to provide animals impounded under their charge, with proper food in sufficient quantities, and to take proper care of them under a penalty not exceeding one dollar for each day during which they neglect so to do, without prejudice to all damages occasioned by such neglect.—Such penalty belongs to the owner of the animal, and is recoverable by him only.

**430.** Whenever any animal is impounded, it is the duty of the pound-keeper, under a penalty of not less than two, nor more than ten dollars, for each act of neglect on his part, to give without delay special notice, either written or verbal, to the owner of the animals impounded, if he is known and domiciled in the municipality.

**431.** If the animal is not reclaimed within the twenty four hours which follow such special notice, or if the owner thereof is unknown or does not reside in the municipality the pound-keeper must, under the same penalty, give public notice, in which are set forth the species and color of the animal, the place where it was found straying, and the name of the place where it is impounded, and he must further announce its sale by

(2) *Held:* That experts named to ascertain the damages caused by animals straying and not impounded, have not powers to oblige the parties to submit to their decision, unless there has been a compromise or agreement on the part of the contesting parties to submit or acquiesce thereto; that *experts* have such authority only under the conditions mentioned in art. 428 and following of the M. U., that is when animals are impounded. Otherwise these *experts* have authority only as witnesses. Lacosse et Delorme. 6 R. L. 210.

auction on a day fixed, unless such animal is reclaimed by its owner upon payment of all expenses, penalties, fees and costs incurred, as well as such damages as may be agreed upon, or as are determined according to article 442.

**432.** The owner of any animal impounded may demand its delivery, between the hours of seven o'clock in the morning and seven o'clock in the evening of any day, upon payment or legal tender to the pound-keeper of the expenses, fines, fees and costs incurred respecting such animal, and such damages as may be agreed upon, or are determined according to art. 442.—If the pound-keeper refuses or neglects to deliver the animal kept in pound after such payment or tender has been made, he incurs a fine of two dollars for every day he thereafter detains such animal, in addition to the damages occasioned by such refusal. (1)

**433.** If on the day fixed for the sale, the animal impounded has not been reclaimed, and if the damages fixed together with the penalties, fees, expenses and costs incurred have not been paid, such animal must be publicly sold by the pound-keeper to the highest and last bidder.

**434.** If on the day fixed for the sale, there are no bidders, the sale is adjourned to another day, and a public notice thereof is given without delay.

**435.** The price of adjudication must be instantly paid and before delivery, in default whereof the animal is again put up for sale.

**436.** The proceeds of the sale are employed in paying what is due in consequence of the impounding of the animal; and the balance is placed without delay in the hands of the secretary treasurer of the local council, and, if not reclaimed within a year by owner of the animal sold, belongs to the corporation.

**437.** If the sale has not realized a sufficient sum, the owner of the animal is liable to make up the balance.

(1) *Held*: That when an animal staying has been put in the pound the owner of the animal cannot claim it without first opening to pay the fine and damages. *Brosseau vs Brosseau*. 1 M. L. R. (S. O.) 307.

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**438.** The owner of any animal so sold, if he does not reside in the municipality, or if his place of business is not situated therein, may reclaim his animal from the purchaser, within one month from the day of sale, by paying him ten per cent, on the purchase money, over and above all disbursements for purchase, keep and other charge.

**439.** Whoever takes and conveys away any animal impounded, without permission from the pound-keeper, incurs a penalty equal to the sum claimed on account of such animal; and, in addition, a fine of two dollars, or imprisonment not exceeding eight days, or both.

**440.** Penalties imposed on the owners of animals found straying, are for the first offence as follows:—For each stallion not under one year \$6 00;—for each bull, boar, or ram \$2.00;—for each gelding, colt, filly, mare, ox, cow, calf, heifer or hog ringed \$0.25—for each hog not ringed, or goat \$1.00;—for each sheep, \$0.10;—for each goose, duck, turkey or other poultry \$0.05;—for each subsequent offence the penalty is double that imposed in the last instance.—Such penalties may be paid to the pound-keeper before suit brought. (1)

**441.** The penalty mentioned in the preceding article may be paid to the pound-keeper before suit brought for their recovery.

**442.** In case of contestation the damages occasioned by animals found straying, are ascertained and determined by three experts appointed as follows: one by the complainant, one by the owner of the animal, and the third by the two experts already appointed.—If the complainant or the owner of the animal is not present, his expert is appointed by the pound-keeper. If one of the parties, or in his absence, the pound-keeper, refuse to appoint his expert, he is appointed by a justice of the peace.—These experts must be appointed summarily and without delay, on the demand of the owner of the animal or of the complainant.—The experts at once

(1) *Held*: That a suit for the recovery of fines incurred under art. 440 M. C. and instituted by a complainant under his own name, cannot be maintained.—*Lahale vs. McMartin*, 7 R. L. 185.

proceed to view the damages and to render their judgment, which is final and conclusive.—The amount of damages determined by them is recoverable, in case of refusal to pay the same, in the same manner, as penalties imposed under this code.

**443.** No one is entitled, to compensation for damages caused upon his land by stray animals if such damages are occasioned by the absence or defect of his boundary fences. (1)

**444.** It is not necessary that animals found straying be impounded to give rise to a right of action against the persons permitting such animals to stray, for the penalty and damages occasioned.

**445.** The occupant of any land is answerable for any animal he receives to pasture thereon, as if such animal were his own property.

**446.** Persons in possession of animals found straying or impounded have the same rights and privileges,

(1) *Held*: 1. That it is only on the express permission of the law that damages and fine can be demanded by one and same action.—2. That chap. 26. O. O. L. C., granting this faculty, one can under the statute unite the two means of action.—3. That the Municipal Code has abrogated chap. 26 only as far as it concerns corporations acting under that code;—4. That it is only when animals are impounded by pound keepers that this matter concerns the corporations acting under this code;—5. That in all other cases the damages and the fine for impounded animals can be recovered, under chap. 26 by one and same action.—*Dacoust vs. Proulx*, 7 R. L. 317.

*Held*: That the experts named to value the damages caused by animals found straying and not impounded, have not power to bind the parties to submit to their decision, unless there be a promise on the part of the contestants to submit thereto or to acquiesce therein;—That the experts have said power only under the conditions imposed by arts. 428, &c. M. O., that is when the animals are impounded; otherwise these experts have only the authority of witnesses. *Lacosse vs. Delorme*, 7 R. L. 210.

*Held*: That a defendant, to take advantage of art. 443 M. O. and free him self of the damages caused by his animals, must not only prove the absence or defect of the fences of the plaintiff, but also that it is from such absence or defect that the damages have been occasioned;—That it is the duty of the defendant to prove that the plaintiff is bound to fence the spot through which the animals, have gone out;—That when between neighbors there is a spot which nobody is obliged to fence, both are responsible of the exit of these animals at this spot. *Lacosse vs. Delorme* 6. R. L. 210.

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and are subject to the same obligations, and liable to the same penalties as the owners of such animals.

**447.** Any owner or occupant of land, or any member of his family, may take and impound of his own premises any animal found straying in the municipality, on any beach, flat road, public place, or upon any land, with the same powers and formalities, and under the same obligations and penalties as pound-keepers appointed by the council.—In cases which come under the provisions of this article, the animal so impounded cannot be sold except by the pound-keeper of the rural division, if there be one, or if there be no pound-keeper or if he neglect to do so, then by the rural inspector of the division, without, however, in any manner, rendering the corporation, whose officers they are, responsible.

**448.** Penalties recovered under the provisions of this title, except in the case mentioned in the article 429, are divided according to the rule prescribed in the article 1048.

## BOOK SECOND.

### POWERS OF MUNICIPAL COUNCILS.

#### PRELIMINARY PROVISIONS.

**449.** In addition to the powers which are conferred upon them by the provisions of this book, municipal councils may further exercise those conferred upon them by other provisions of this code, or of any other law not inconsistent with this code.

**450.** By-laws, resolutions and other municipal ordinances, must be passed by the council in session.

**451.** Municipal councils, in exercising their powers, must comply with all the formalities prescribed by the by-laws in force in the municipality, in addition to the formalities required by the provisions of this code.

**452.** The powers specially conferred on any municipal council by the provisions of this code, can be exercised by such council only. — Nevertheless, any council which, under the municipal code, no longer possesses the powers which were conferred upon it by acts antecedent to the coming into force of this code, may repeal the acts which it shall have passed under such powers.

#### TITLE I.

##### MUNICIPAL BY-LAWS.

#### CHAPTER I.

##### GENERAL PROVISIONS.

**453.** The by-laws of municipal councils must not contain any provisions inconsistent with those of this code or of any other law.

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**454.** Municipal by-laws come into force and effect as law, if not otherwise prescribed in the provisions contained in such by-laws, fifteen days after their promulgation, except always in the case of appeal to the county council against the passing of a by law by the council of a rural municipality, and in any other case otherwise provided for by the provisions of this code.

**455.** Municipal by-laws which, in consequence of certain provisions of their own or of this code, can only come into force at some stated period, must be promulgated at least fifteen days before such period.

**456.** Every by-law passed by the council of a rural municipality, and amended or confirmed in appeal by the county council, comes into force fifteen days after its promulgation or publication, in virtue of article 695.

**457.** The original of every municipal by-law, to be authentic, must be signed either by the head of the corporation, or by the person presiding at the time such by-law was passed, and by the secretary-treasurer. — If it has been necessary to submit the by-law for the approval of the municipal electors or of the lieutenant-governor in council, before it can come into force, and it has received one or other of such approvals, a certificate, under the signature of the head of the council and of the secretary-treasurer thereof, certifying to each of these facts, must accompany and form part of the original of such by-law.

**458.** The secretary-treasurer of the county council must transmit a certified copy of any by-law passed by such council to the office of the council of each local municipality within the limits of which such by-law is in force.

**459.** One or more of the subjects mentioned in the provisions of this title may be provided for in one and the same by-law, provided that each of such subjects is within the jurisdiction of the council which passes such by-law. — In the case of several subjects provided for in one and the same by-law, requiring the approval of the municipal electors or of the lieutenant-governor in council, one approval, either by the municipal electors or





necessary for the municipality, upon any of the subjects mentioned in this chapter :—

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503, 504  
556, 586  
(R. S. Q.)

## SECTION I.

## GOVERNMENT OF THE COUNCIL AND OF ITS OFFICERS.

they have the sittings of the council or the committees thereof, and to perform their duties thereat. (1)

**466.** To regulate the manner in which debates are to be carried on, and order and decorum preserved during the sittings of the council or of the committees.

**467.** To fix the number of days the ordinary sessions may last.

**468.** To order that the municipal by-law, before the passing thereof, be read two or three times, either on the same or on different days.

**469.** To appoint an officer, whose duty it shall be to serve the special notice required by the provisions of this code or of municipal by-laws, and to oblige such officer to take an oath of office.—The appointment of any such officer does not render other municipal officers incapable of making the service which they are authorized to make by this code.

**470.** To define the duties, not defined by this code, of the officers of the council; and to impose penalties in accordance with article 508, for negligence or omission in the performance of their duties in cases in which penalties have not been fixed by this code for any such act of neglect or omission.

**471.** To establish a tariff of fees payable to municipal officers for their services, whether by the persons who have required such services, by those in whose interest they were rendered, or by the corporation, in the cases where the fees for such services have not been

(1) *Jugé* : Que les membres d'un conseil municipal ne peuvent être condamnés à l'amende pour défaut d'assistance s'il n'y a pas un règlement pour les contraindre à assister et à y remplir leurs devoirs, — *Plante vs. Rivard*, 2, L. N., 240.

determined by the provisions of this code. —Every tariff made in virtue of this article must be posted up in a conspicuous place in the office of the council.

**472.** To fix the remuneration of the municipal officers by the council in addition to the fees or penalties which they are entitled to receive under the authority of this code, of any other act, or of any municipal by-laws.

**473.** To determine upon what days of the week the office of the council is to be kept open, between nine o'clock in the forenoon, and four o'clock in the afternoon. —In default of the council determining such office days in virtue of the preceding provision, the office of the council must be kept open every juridical day, during such hours.

**474.** To order the publication, in one or more newspapers, of the notices of meeting of the council, without prejudice to the provisions of articles 126, 139, 260 and 290. (*R. S. Q.*, art. 6095).

## SECTION II.

### PUBLIC WORKS OF THE MUNICIPALITY.

**475.** To order and regulate, when in the interest of the inhabitants of the municipality, or of a considerable portion thereof, the construction, opening up, widening, deepening, altering, repairing, or maintaining at the expense of the corporation, of all ditches, water-courses, sewers, embankments and fences. —Every by-law, made in virtue of this article, concerning a water-course: governed by an act of agreement, or by a *procès-verbal*, has the effect of subrogating the corporation in the place and stead of the persons bound to work at such water-course, in so far as the obligation to do such work is concerned. (1)

(1) *Jugé* : Que l'inondation d'une maison causée par le débordement des eaux provenant de pluies torrentielles qui peuvent s'écouler par l'égout public rend la corporation municipale responsable

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**478.** To aid organization roads, council to be class, in which ted, in virtue roads.

**479.** To aid away, pier, wh omnibus or dilig other public wor the municipality by any incorpo government, or by taking and s rmed for such moneys or deben

des dommages Bouc la cité de Montréal. 1 *Jugé* : Que lorsque eaux d'égouts, qua ruits par elle-même, et à ceux qui s'en se tifs, elle ne peut p avant ses ressources educ vs. La cité de M

**476.** To authorize road inspectors to permit the execution of certain works, on municipal roads, fords, ferries, sidewalks or bridges, under the control of the council, which might have the effect of obstructing, impeding inconveniencing and rendering passage on such public works dangerous; and in every such case, the council must determine the conditions under which such permits may be granted.

**476a.** To order that fences be made of wire along municipal roads at the places which the council deems expedient. (*R. S. Q.*, art 6096.)

**477.** To assist by money, granted or lent, in the construction of any macadamized road or the repair or maintenance of any road leading to the municipality, or of any bridge or public work, under the direction of the corporation of any other municipality. (*Id.*, art. 6097).

**478.** To aid in opening up and improving the colonization roads, declared by the lieutenant-governor in council to be colonization roads of the second or third class, in which the corporation has been held to be interested, in virtue of any law concerning colonization roads.

**479.** To aid in the construction of any bridge, causeway, pier, wharf, slide, macadamized or paved road, omnibus or diligence lines, iron or wooden railroad, or other public work, situated in whole or in part within the municipality or its vicinity, undertaken and built by any incorporated company, or by the provincial government, or by any person or firm of persons:—1 By taking and subscribing for shares in any company formed for such purpose;—2 By giving or lending moneys or debentures to such company or to the pro-

es dommages *Boucher vs. Le maire, les échevins et les citoyens de la cité de Montréal.* 15 L. C. J., 272.  
*Jugé :* Que lorsque la corporation municipale est en possession de canaux d'égouts, quand même ces égouts n'auraient pas été construits par elle-même, elle est tenue en loi, de les entretenir en bon état à ceux qui s'en servent; en cela ses pouvoirs ne sont pas législatifs, elle ne peut prétendre qu'elle n'est tenue à cet entretien que devant ses ressources pécuniaires et qu'il est laissé à sa discrétion. *educ vs. La cité de Montréal.* 8 L. N., 226

vincial government or to any person or firm of persons who undertakes the establishment of any of the public works above mentioned;—3. By guaranteeing, by endorsement or otherwise, any sum of money borrowed by such company or by the government or by such person or firm of persons:—4. By acquiring the right of way in the municipality for any railway company either by mutual agreement, or by paying the price of the lands necessary for that purpose as established by an appropriation made for that purpose under the provision of the railway act. (*R. S. Q.*, art. 6098 as amended by 52 Vict., cap. 54 s. 7.) (1)

**480.** To aid in the establishment of manufactories and the construction of electric telegraph lines:—1. By subscribing for and holding stock in any company formed for such purpose;—2. By giving or lending money or debentures to such company, or to any person or firm of persons who undertake the establishment of a manufactory in the municipality or the construction of electric telegraph lines. (*Id.*, art. 6099.)

(1) *Jugé*: Que lorsqu'il n'y a pas de délai fixé dans un contrat pour remplir une obligation alternative, le débiteur ne peut être déchu de son droit d'opter que par l'expiration du délai accordé par le jugement contre lui; que lorsque le montant d'une souscription à une compagnie de chemin de fer, par une corporation municipale, est payable soit en débetures ou en argent, la corporation ne peut, par un protêt à elle signifié fixant un délai pour la livraison des débetures, être privée de son droit de payer en débetures, et que l'action contre la corporation doit demander l'alternative. La Compagnie du chemin de fer des Laurentides et la Corporation de la paroisse de St-Lin. 24 L. O. J. 191.

*Jugé*: Que l'obligation d'une municipalité de donner des débetures, en paiement d'une souscription d'actions dans une compagnie de chemin de fer, ne doit pas être considérée comme une pure obligation de payer des deniers quant aux dommages résultant du délai à remettre les débetures (art. 1077, C. C.) et qu'en cas de retard de sa part elle peut être condamnée à payer des dommages spéciaux causés par ce retard. La Corporation du comté d'Ottawa, et la Compagnie du chemin de fer de Montréal, Ottawa et Occidental. 28 L. C. J. 29. Vide 26 L. C. J. 148 et 5 L. N. 132.

*Jugé*: Qu'une compagnie dûment incorporée, d'après la loi Vict., ch. 32, avait le droit d'empierrer un chemin de front dans les limites d'une municipalité de village, d'y poser des barrières et d'y percevoir des péages. La Cie du chemin de péage de la Pointe Claire et Leclair. 1 M. L. R. 296.

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**481.** Every by-law passed in virtue of the two preceding articles shall before coming into force and effect, be approved by the majority in number and in value of the electors being proprietors of taxable real estate, who have voted in the municipality and by the lieutenant governor in council, no property exempted from municipal taxation, by the by law of the council or in connection with which a subsidy or bonus has been granted by the council shall be computed in the value above mentioned. (53 V. c. 63, s. 2.)

**482.** If the price of the shares fixed upon by a by-law of the council passed in virtue of articles 479 and 480 is not in hand, none of such shares can be taken or subscribed for in execution of such by-law, by the head of the council or other person thereunto authorized, before the council has ordered an issue of debentures or a loan to be contracted sufficient to cover the amount of shares to be subscribed for.

**483.** By-laws made in virtue of articles 477, 479 and 480 may determine the conditions under which assistance or subscription for shares is authorized.

#### SECTION IV.

#### AID TO COLONIZATION, AGRICULTURE, HORTICULTURE, ARTS AND SCIENCES.

**484.** To aid, in every suitable way, colonization within the Province; to aid agriculture, horticulture, arts and sciences, within the municipality, or within the limits of the agricultural society in which such municipality is situated. (*R. S. Q.*, art. 6100.)

**484a.** To establish and manage alms-houses or other establishments of refuge for the support of the necessitous; and to aid charitable institutions established in the municipality. (*Id.*, art. 6101.)





## SECTION VI.

## DIRECT TAXATION.

**489.** To levy by direct taxation on all the taxable property, or only on all the taxable real estate of the municipality, any sum of money required to defray the expenses of administration, or for any special purpose whatever within the scope of the functions of the council, (1)

**490.** To levy by means of direct taxation on all the taxable property or only on the taxable real estate belonging to those persons who, in the opinion of the council, are interested in any public work under the control of the corporation, or belonging to those who

(1) *Held*: That parties who have paid to a municipal corporation a tax imposed by an illegal by-law, have right to be reimbursed thereof even before the by-law has been declared null and without being obliged previously to sue to have the by-law declared null.—*Corporation of Rimouski vs. Ringuet*,—Court of Appeals, Quebec, 4th March 1878.

*Held*: That the by-law of a municipal council ordering to levy a sum of money "to pay the debts of the corporation and the expenses of the municipal council for the year 1869," without stating in a precise and determined manner such expenses and debts, is contrary to the letter and to the spirit of the municipal law, and must be declared null and illegal;—that every rate-payer who has paid taxes under such a by-law may, when invoking its nullity, claim them back;—that if the collection roll enters as the taxes of a rate-payer an amount higher than what it ought to be, under the by-law imposing the same, such roll is null as regards this rate-payer and only as to the overplus.—*Dubois vs. Corporation du Village D'Acton Vale*, 2 R. L. 565.

The Respondents had paid to the Appellants taxes which the latter had no right to levy and which it had not levied according to the terms of the by-law. They have sued to be reimbursed and have obtained judgment. Judgment confirmed.—*La Corporation de la Ville de St. Jean vs. Bertrand*,—Court of Appeals, Montreal, 17th June, 1875.

*Held*: That a municipal council has the right to levy by way of direct taxation all sums of money necessary to meet the current expenses and for any special purpose; but that the municipal by-law imposing said tax must show for what expenses and what debts this tax is incurred and must be based on precise and determined estimates; otherwise it is contrary to the spirit of the municipal law and can be declared null.—*Goulet vs La Corporation de Ste. Marthe* 29, L. O. J. 107.

benefit by such work, all sums of money required for the construction and maintenance of such work. (*R. S. Q.*, art. 6104.)

**491.** To levy, by means of direct taxation, money required for any purpose within the scope of the functions of the council, on all taxable property, or only on all taxable real estate comprised within a part of the municipality, on petition by the majority of the rate-payers liable to pay such tax, to the extent and under the conditions set forth in such petition.—The county council only exercises the power conferred by this article when the territory, by the majority of the rate-payers of which such petition was presented, is situated in two or more local municipalities of the county, or when the money to be raised and levied is to be employed on some public work which falls under its jurisdiction.

## SECTION VII.

### LOANS AND ISSUE OF DEBENTURES.

**492.** To borrow money in sufficient sums for any purposes within the jurisdiction of the council. (1).

(1) *Held:* That where the power of making negotiable promissory notes or accepting bills of exchange, is not expressly given to a municipal corporation, it cannot be implied as necessary to accomplish any of the purposes for which such a corporation is erected 2. That a promissory note made by a municipality corporation to pay the amount of a judgment against the municipality is null the legislature having empowered municipalities to raise money in different manner. *Pacaud vs. La Corporation de Halifax Sud*, 17, L. C. R. 58.

*Held:* By Judge MacKav. (S. C., Montreal, 20th Dec. 1878, *Ledoux vs. Picotte*, and the Municipality of the Village of St. Louis of the Mile-End, T. S.) that promissory notes signed by the mayor and secretary-treasurer of a municipality according to a resolution authorizing them so to do, is valid and binds the corporation.

Village councils having under the Municipal Code the power to purchase fire engines, the council of the Village of L'Assomption has bound the corporation by the purchase it has made of a fire engine, and the council had power to buy the same on credit, and thereby the council has bound the corporation, and the latter has been legally obliged to pay the debt contracted by said council; and it is a

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**493.** To issue debentures for any amount deemed requisite, to obtain money for any purposes within the jurisdiction of the council.

**494.** Every municipal by-law, which orders or authorizes a loan or an issue of debentures, must declare the purposes to which the sum so borrowed must be applied, and may contain all provisions deemed requisite to ensure the proper application of the money and the attainment of the end set forth in the by-law.

**495.** No debentures can be issued, and no loan can be contracted, unless the by-law, which authorizes the same, impose, upon all taxable property liable for the payment of such loan or debentures, an annual tax sufficient for the payment of the yearly interest thereon, and at last two per cent over and above such interest, as a sinking fund, until the extinction of such debt.—The apportionment of the moneys to be levied for the payment of the interest and the sinking fund annually shall be based on the roll in force at the time of such apportionment, without prejudice to the rights of debenture holders. (*R. S. Q.* art. 6105).

**496.** Every by-law, which orders or authorizes a loan or an issue of debenture, must before coming into force and effect, be approved by the electors of the municipality, when the taxable property or the taxable real estate of the whole municipality is subject for the payment of such loans or debentures, and in all cases by the lieutenant-governor in council.

mistake to say that the council could make such purchase only after the corporation had passed a by-law providing for the payment of the fire engine.—*Corporation of L'Assomption vs Baker*, 4 L. N. 370.

*Held:* That a municipal corporation will be condemned to pay the amount of a promissory note signed by the mayor and secretary-treasurer in the name of the corporation, where it is neither alleged nor proved that the note was given without lawful consideration.—*The Corporation of the Township of Gratham vs. Couture et al.* 24 L. C. J. 105.

In this case the appeal was dismissed, the Court being of opinion that the note being apparently regular, and the appellant having failed to object to the want of authority in the Court below, could not be permitted to attack the judgment on that ground now.—*Corporation of Grantham vs. Couture et al.*, 2 L. N. 350.

**497.** If only the taxable real estate of the municipality, is liable for the payment of such loan or debentures, the persons who are proprietors of such real estate, are alone entitled to vote in approval or disapproval of such by-law.—In such case, widows and spinsters in the exercise of their rights shall also have the right to vote provided they possess the other qualifications required to be a municipal elector according to article 291. (*R. S. Q.*, art. 6106.)

**498.** It is the duty of the secretary-treasurer of the council, which has passed any such by-law, to forward to the lieutenant-governor, together with a copy of the by-law submitted for approval, a statement showing the total value of taxable property liable under such by-law, and all the debts and liabilities of the corporation.—Such statement must be attested under the special oath of the secretary-treasurer.

**499.** To deposit at interest in a chartered bank, or to invest in the public funds of Canada, or of this Province, or on first hypothec, any moneys belonging to the corporation.—When the sums are intended to form a sinking fund, for the redemption of debentures issued, the council may, instead of depositing the same in an incorporated bank, redeem its own debentures.—Any municipal corporation which had any agreement with any incorporated bank or other institution, for depositing a sinking fund in virtue of any resolution or by-law of such corporation, or otherwise to redeem debentures issued by such corporation in virtue of any such by-law previous to the 28th December, 1876, may withdraw any money deposited in virtue of the same, together with the interest thereon accrued, with the consent of such bank or institution, provided the money be applied forthwith to purchase the debentures issued for which such sinking fund is payable. Any such bank, in which such sinking fund may have been deposited may pay over all such money, as well as the interest thereon accrued, to such municipal corporation on receiving a resolution of the council of such municipality to that effect. (*R. S. Q.*, art. 6107.)

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**500.** The secretary-treasurer is always authorized, even in the absence of any by-law or resolution to that effect, to deposit temporarily in a duly chartered bank, all moneys proceeding from municipal taxes or dues or belonging to the corporation, and to leave such moneys at deposit, until applied to the purposes for which they were levied, or until disposed of by the council.—He is bound so to do, when required by the council or by the head of the council.

**501.** All sums of money not especially appropriated form part of the general fund of the corporation.—Whenever any sum levied exceeds in amount the sum required by the council to meet the liabilities for which such sum was raised, the surplus belongs to the corporation and falls into the general fund thereof.

**502.** All sums of money forming part of the general fund of the corporation, may be employed for any purpose within the scope of the functions of the council.

## SECTION IX.

### MISCELLANEOUS PROVISIONS.

**503.** To establish and manage a sinking fund for the purpose of liquidating any municipal debt.

**504.** To have a census taken of the inhabitants of the municipality, or of a portion of the municipality.

**505.** To give rewards for the destruction of wild animals; and to determine the conditions upon which such rewards are given.

**506.** To offer and give rewards for information which may lead to the discovery and arrest of persons who have committed criminal offences.

**507.** To authorize the officers of the council to visit and examine all property, whether moveable or immoveable, as well as the interior or exterior of every house building or other edifice, to ascertain whether or not the by-laws of the council are carried out.—To oblige owners or occupants of such properties, buildings and edifices to receive the officers of the council, and to answer



truly all questions which are put to them relative to the carrying out of such municipal by-laws.

**508.** To impose for each violation of any by-law of the council, a penalty, in the shape of a fine not exceeding twenty dollars, or imprisonment not exceeding thirty days.—Penalties imposed for violation of municipal by-laws cannot be inflicted by the court, unless they are fully described and set forth in the by-laws respecting them. (*R. S. Q.*, art. 6108). (1)

(1) *Jugé*: Que l'inconstitutionnalité alléguée de la dernière partie de l'article 508 du Code Municipal qui se lit comme suit avant l'amendement de 1878, "ou par les deux ensemble," ne produit pas la nullité de tout l'article, et qu'un règlement municipal contenant la punition par l'amende et l'emprisonnement, pouvait sous cette disposition de l'art. 508 telle qu'elle existait d'abord, être amendé de manière à n'imposer que l'un ou l'autre. *Corbeille vs. La Corporation du Village St-Jean-Baptiste*. 7 R. L., 616.

*Jugé*: Que le statut de Q. 32 Vict., ch., 70 s. 17, est inconstitutionnel, le § 15 de la s. 92, de "l'Acte de l'Amérique Britannique du Nord, 1867," ne permettant que l'alternative de l'amende ou l'emprisonnement. *Papin, requérant certiorari et le Maire, et al., de Montréal*. 16 L. C. J. 319. Le contraire a été jugé. 12 R. L., 475.

*Jugé*: Qu'une conviction basée sur un règlement municipal, décrétant une pénalité pour chaque jour qu'une chose est faite lorsque le statut sur lequel le règlement est basé ne donne clairement autorité d'imposer plus d'une pénalité, sera cassée. *Brown et Sexton*. 18 L. C. J., 194.

*Jugé*: Qu'un règlement municipal qui accorde au Recorder la discrétion que la loi ne donne qu'au conseil est mauvais, et qu'une conviction sous un tel règlement condamnant à l'amende et à l'emprisonnement à défaut de paiement, quand le règlement sur lequel elle est basée est dans l'alternative, imposant l'amende ou l'emprisonnement, est illégale.

*Jugé*: Qu'une conviction condamnant aux dépens est illégale, si le règlement n'autorise pas spécialement cette condamnation aux dépens. *Ex parte Marry et Sexton, et le Maire et al. de la cité de Montréal*. 14 L. C. J. 163; 2 R. L., 188.

*Jugé*: Que la Cour Supérieure a un pouvoir discrétionnaire sous le statut de Québec 41 V., ch 14, d'émaner une injonction contre la cité de Montréal, ordonnant à la cité de suspendre ses procédés devant la cour du Recorder, pour mettre à exécution un règlement qu'on prétend illégal, et ce, même quand la question de la validité de tel règlement est pendante devant la Cour d'Appel; que la cour n'exercera ce pouvoir que si le requérant n'a pas d'autre recours, et s'il est exposé à un dommage irréparable, et que la Cour considérera aussi le dommage que souffrira la partie à qui le bref est adressé par l'émanation de l'injonction; que la condamnation à une amende et à l'emprisonnement à défaut de paiement ne cons titue pas un dommage inséparable. *Mallette vs. la Cité de Montréal*. 24 L. C. J., 264.

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**509.** Every council may also, in the interest of the inhabitants of the municipality make, amend or repeal any other by-law, for a purely local and municipal object and not specially provided for by this code.

**509a.** Every municipal council has further all the powers granted to county councils by article 521. (*R. S. Q.*, art. 6109).

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### CHAPTER III.

#### BY-LAWS SPECIALLY WITHIN THE JURISDICTION OF COUNTY COUNCILS.

**510.** Every county council may also make, amend or repeal by-laws for any of the objects mentioned in this chapter.

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#### SECTION I.

##### CHIEF PLACE.

**511.** To fix or change the chief-place of the county. —Nevertheless the chief-place of the county can only be changed by a by-law passed with the concurrence of two third of the members of the council in office. —After a registry office has been established therein, according to the provisions of article 2158 of the civil code, or a public building for the use of such council has been provided, or is in course of construction, the chief-place can only be changed by the provincial legislature.

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#### SECTION II.

##### CIRCUIT COURT AND REGISTRY OFFICE OF THE COUNTY.

**512.** To determine the place where the circuit court for the county is to be held in conformity with the provisions of chapter twenty-nine, of the consolidated statutes for Lower Canada.

**513.** To provide for the construction and maintenance of a building designed for the circuit court at the place appointed for such purpose ; — 2. To provide for the purpose or acquisition of land suitable for the erection of such building and the expropriation of the land necessary for the buildings already existing for such purpose, whether the building is situate within the limits of the municipality of the county, itself, or within the limits of a city or town comprised in the same registration division ; and such expropriation may take place notwithstanding the provisions of the charter of such city or town or other provisions to the contrary. — The corporation of every town or city municipality, which is comprised in the same county for judicial or registration purposes, is bound to contribute to the expenses incurred or to be incurred by the corporation of the county in virtue of this article, for the court house at the *chef-lieu* of the county, as well as to the costs of repairs deemed necessary thereafter, in the same proportion as the other local corporations of the county, in accordance however with the total amount of the valuation of its taxable property ; and the corporation of the county may determine its shares and recover the amount thereof as from any other municipal corporation. — If the council of such town or city refuses or neglects to produce at the proper time an authentic certificate of the valuation of its taxable property, the county council may fix the amount of its share, as it may deem just. (*R. S. Q.*, art. 6110).

**514.** To provide for the construction and maintenance of a registry office either apart from or forming part of any court house in the county, with a metal safe, or fireproof vault for the preservation of the books, deeds and papers of the office. — 2. To provide for the purchase of the land necessary for its erection as well as for the manner of effecting the expropriation of the land required for the present buildings for that purpose whether such building be situate within the limits of the county municipality itself, or within the limits of a city or town included within the same registration

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(1) *Jugé* : Que le comité et autorité municipale a une bâtisse pour et une voûte à l'usage de bureau d'enregistrement, le prix total n'excédant pas le montant que l'entrepreneur n'aurait pu lui-même payer, qui l'avait averti de la fontaine vs. la Corporation de la ville de Légaré. 6. R. J. Q.

*Jugé* : Qu'un écrit destiné à former un terrain a servir de preuve publique est une preuve. *Guy et La Cité de Légaré vs. la Corporation de la ville de Légaré.*

*Jugé* : Qu'une corporation municipale n'est pas tenue de déclarer une ruelle rurale, et qu'il n'est pas de la municipalité y passer d'abord destinée à l'usage de la ville de Ste-Martine vs. la Corporation de la ville de Ste-Martine.

*Jugé* : Qu'une corporation municipale n'est pas tenue de passer une rue pour un usage spécial pour y passer un véhicule. *La ville d'Iberville vs. la Corporation de la ville d'Iberville.*

division, notwithstanding the provisions of the charter of such city or town or other provisions to the contrary. (Amended by 52 Vict. c. 54, s. 8). (1)

**515.** Every county corporation is bound to provide and keep constantly in perfect repair a suitable and ample metal safe or fire-proof vault in the registry office of the county or registration division, no matter where the building may be situated in which such registration office is established or removed — Every corporation which omits or neglects to comply with the provisions of this article is liable to the Crown in a penalty of two hundred dollars, recoverable as a debt due to Her Majesty, and is further responsible for all damages occasioned by such omission or neglect. — The corporation of any city or town municipality, comprised within the same county for registration purposes, is obliged to contribute to the

(1) *Jugé* : Que lorsqu'un règlement ordonne la nomination d'un comité et autorise ce comité à acquérir un terrain et à y construire une bâtisse pour le bureau d'enregistrement et une cour de justice, et une voûte à l'épreuve du feu, ce comité excède ses pouvoirs en donnant un contrat pour la construction d'une salle publique, d'un bureau d'enregistrement, d'une cour et d'une voûte, même si le prix total n'excède pas la limite fixée par le règlement, et que l'entrepreneur n'aura pas d'action sur ce contrat, contre la corporation qu'il avait averti qu'elle ne sera pas responsable. Fournier dit Préfontaine *vs.* la Corporation du comté de Chambly. 14 L. C. J. 295.

*Jugé* : Que tout chemin ouvert et fréquenté par le public, comme tel, sans contestation, pendant l'espace de dix ans et au-delà, doit être considéré un chemin public et avoir été légalement reconnu chemin public suivant l'esprit de la loi. Mygnerand dit Myrand et Légaré. 6 R. J. Q. 120.

*Jugé* : Qu'un écrit n'est pas nécessaire pour établir qu'un terrain a été destiné à former une rue pour l'usage du public, et que le fait qu'un terrain a servi pendant au-delà de dix ans, comme chemin public est une preuve suffisante de cette destination par le propriétaire. Guy et La Cité de Montréal. 3 L. N., 402.

*Jugé* : Qu'une corporation municipale qui poursuit pour faire déclarer une ruelle rue publique, doit établir son droit hors de tout doute, et qu'il n'est pas suffisant d'établir que les habitants de la municipalité y passaient surtout s'il appert que cette ruelle était d'abord destinée à l'usage des propriétaires voisins. — La Corporation de Ste-Martine *vs.* Cantin. 2 L. N., 14.

*Jugé* : Qu'une corporation municipale n'a pas droit d'exproprier pour passer une rue le terrain qui a été exproprié en vertu d'un statut spécial pour y construire un pont servant à l'usage du public. La ville d'Iberville *vs.* Jones 3 L. N., 277.

costs incurred by the corporation of such county under the present article, as well as the costs occasioned for the erection and repair of the place absolutely required for registry offices, in the same proportion as the other local corporations of the county, according however to the total amount of the valuation of its taxable property; and the county corporation may determine its share and recover the amount thereof in the same manner as from any other local corporation. — If the council of such city or town neglects or refuses to produce, at a suitable time, an authentic certificate of the amount of the valuation of its taxable property, the county council may determine the amount of its share as it may deem proper. (*R. S. Q.*, art. 6111).

**516.** If it is established that a registry office is without a vault or safe, or that such vault or safe is defective, the lieutenant-governor may order the recovery of such penalty from the county corporation in default, and may cause a proper safe to be placed, or a proper vault to be built, in such registry office, or the existing safe or vault to be renewed or repaired at the cost of the province; and the sum so expended may be recovered from the corporation as a debt due to the crown.

**517.** If there are several county municipalities in the same registration division, the penalty, expenses and costs are due by all the county corporations, and may be recovered from any one of them, saving its recourse against the others for their proportions.

**518.** To ensure the copying of all deeds, which must be deposited in the registry office according to the ninety-fourth section of chapter thirty-seven of the consolidated Statutes for Lower Canada.

### SECTION III.

#### ROADS AND BRIDGES.

**519.** To cause mile posts and guide posts to be set up on municipal public roads, or on those belonging to

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trustees or turnpike roads or others, to show the distance from the principal places to which such roads lead, at the expense of corporations of local municipalities in which such mile posts are placed.

**520.** To place toll-bars on the bridges under the control of the corporation of the county; and to levy toll on the persons, animals and vehicles which pass over such bridges. — The council may, by such by-law or by any subsequent by-law, exempt from tolls such persons as it may deem desirable. — By-laws made under this article have no force and effect, until they have been approved by the lieutenant governor in council.

**521.** Subject to the provisions of articles 5766 of the Revised Statutes of the province of Quebec to prohibit the use by persons living in the municipality of any winter vehicles on municipal roads or on roads belonging to trustees of turnpike roads or others, unless the horse or horses or other beasts of draught, when they are not harnessed abreast, be harnessed in such a manner that the left runner of the vehicle shall run in the tracks of such horse or horses or other beasts of draught; and further to regulate the length and breadth of the vehicle to be used by such persons on such roads. And in such case no person shall be permitted to make use of any winter vehicles other than these above mentioned. (*R. S. Q.*, art. 6112).

**522.** To prevent, on the opposition of any interested party, the construction of macadamized or planked roads by road companies, according to the provisions of chapter seventy of the consolidated statutes for Lower Canada.

#### SECTION IV.

##### FIRE IN THE WOODS.

**523.** To determine the periods of the year during which fire must not be applied within the limits of the municipality to lands, brush-wood, trunks of trees, stumps, fallen trees and other timber, for the purpose

of clearing or improving lands, subject, however, to the provisions of the law respecting the clearing of lands and the protection of forests against fires (*R. S. Q.* art. 6113.)

### SECTION V.

#### INDEMNITY TO MEMBERS OF THE COUNCIL.

**524.** To award and fix an indemnity to the warden to the members, and to the delegates of the council, for their travelling expenses and board.

### CHAPTER IV.

#### BY LAWS SPECIAL WITHIN THE JURISDICTION OF LOCAL COUNCILS.

**525.** Every local council may further make, amend or repeal by-laws for each of the objects mentioned in this chapter.

### SECTION I.

#### PUBLIC HIGHWAYS.

#### § I.

#### ROADS AND BRIDGES.

**526.** To order the opening, construction and maintenance of public roads or bridges in the municipality, under the management of the council. (1)

(1) *Jugé*: Qu'une corporation municipale ne peut valablement s'engager à faire un règlement à l'effet de faire ouvrir une rue, et que dans le cas de tel engagement le défaut d'exécution n'autoriserait aucun recours contre elle. *Brunet et la Corporation du village de la Côte St-Louis* 2 M. L. R. (B. R.) 103.

*Jugé*: Qu'une corporation ayant passé un règlement pour ouvrir un chemin sur la propriété d'un individu et des résolutions pour porter en révision un jugement contre ses employés poursuivis pour violation de propriété [*trespass*], dans l'exécution du règlement, est

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responsable enver le propriétaire du priétaire dans l'ou et sans l'observati Callaghan vs. La 8 R. L. 293.

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(1) *Jugé*: Qu'une ans obligation spé rues fermées sera ce l'exercice de ce droi 225.—Ce jugement

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**527.** To order the widening, altering, or change of position of all municipal bridges or roads, in the municipality.

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**528.** Whenever a municipal council has passed a by law or resolution, in virtue of the two preceding articles, the proceedings prescribed by the provisions of article 794 and the following articles to article 821 inclusively, must be carried on without delay; to regulate, determine, and apportion the works ordered by such by-law.

**529.** Nevertheless, if the works must be executed at the expense of the corporation, under article 535, no *procès-verbal* is made, and the works are regulated and determined by the council which orders the same.

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**530.** To order, after having given public notice, the closing or destruction of any municipal road in the municipality, whether governed by a *procès-verbal* or not. (1)

responsable envers ses employés des dommages réclamés d'eux par le propriétaire du terrain où ce chemin est ouvert, causés au dit propriétaire dans l'ouverture de ce chemin faite d'une manière illégale et sans l'observation des formalités requises par le code municipal. *Callaghan vs. La Corporation de St-Gabriel Ouest.* 4 Q. L. R., 50; 3 R. L., 293.

*Jugé :* Qu'une corporation municipale n'est pas responsable des dommages résultant de son défaut d'ouvrir un chemin dont l'ouverture est ordonnée par un règlement.

*Baldwin et Corporation du Canton de Barnston,* 17 R. L., p. 338.

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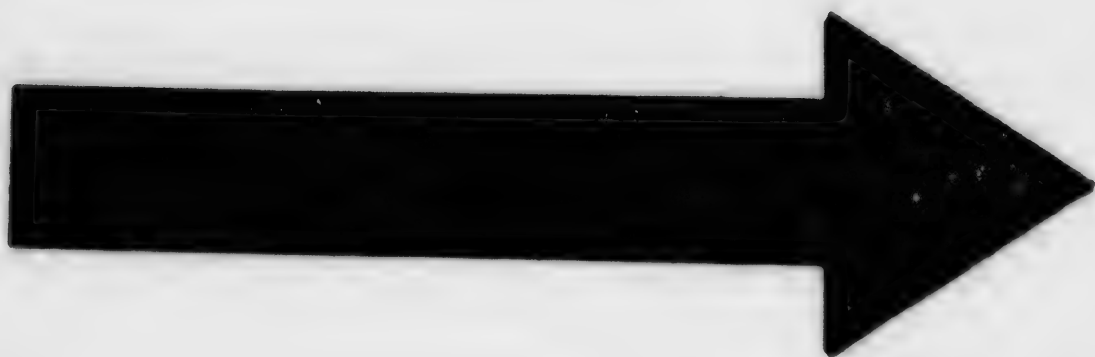
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(1) *Jugé :* Qu'une corporation municipale autorisée à fermer les rues sans obligation spéciale d'indemniser les propriétaires longeant les rues fermées sera cependant condamnée à payer des dommages pour l'exercice de ce droit. La cité de Montréal et Drummond 18 L. C. J., 225.—Ce jugement a été renversé par le Conseil Privé.

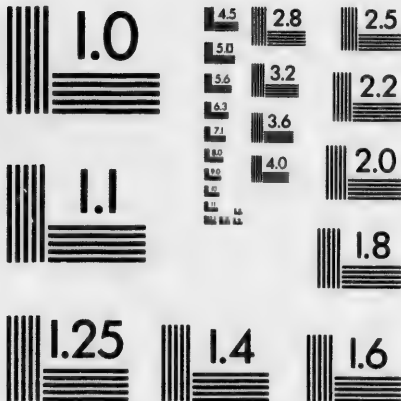
*Jugé :* Qu'une corporation municipale qui fait illégalement fermer et obstruer un chemin municipal et public existant depuis au-delà de 20 ans, et qui sert de chemin de front d'une concession, sera responsable vis-à-vis d'un propriétaire le long de ce chemin, des dommages qui résultent de telle fermeture. La Corporation de la partie sud du Canton d'Irlande et du Canton de Coleraine et Larochelle, 13 R. L., p. 697.

*Jugé :* Qu'un conseil municipal local ne peut abolir une route conduisant de la municipalité que représente le conseil à une municipalité voisine, sans avoir donné avis aux intéressés de cette municipalité voisine, quoique cette dernière municipalité ne soit pas chargée



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**531.** The opening, constructing, widening, altering, diverting, or keeping in repair of municipal roads or bridges, may also be ordered by a *procès-verbal* duly homologated by any council or by a board of county delegates, subject nevertheless to the approval of the county council in the case of the following article.

**532.** (Repealed by R. S. Q., art. 6114.)

**533.** To cause the levelling or cleaning of any ford and the raising, rounding paving, macadamizing, gravelling or planking of any road, or part of a road under the direction of the council, at the costs and charges of any one who is liable for the work on such ford or road.—Nevertheless, if the work of paving, macadamizing gravelling or planking, must be performed by the rate payers liable for the road-work, or at their expense, the by law, which orders such work, can only be passed on petition of the majority of the taxable proprietors so liable.—However, if it concerns the keeping up and maintenance of a road already macadamized and which shall come under the control of a local or county municipality, the local or county council, as the case may be, without a petition to that effect, may by resolution or by law, order that such road be kept up and maintained as a macadamized road and that the work of maintaining such road be performed by the rate-payers, themselves, as set forth in the resolution or by-law, or at their expense, but under the control of the corporation within the limits whereof the road to be kept up or maintained is situated, as established by the report of the road inspector or the special officer duly appointed for that purpose under article 376 (as amended by 52 V., c. 55, and 53 V., c. 63, s. 3). (1)

de l'entretien de la route qui avait été mise à la charge de la municipalité qui l'a abolit. La Corporation de St-Romuald, et La Corporation du comté de Lévis, Intimée. 1 Q. L. R., p. 310.

(1) *Jugé*: 1o Que d'après l'article 793 du Code Municipal, une corporation municipale est passible d'amende si elle néglige de faire tenir les chemins et ponts en l'état requis par la loi, les *procès-verbaux* ou règlements.

2o Que cette obligation imposée par l'art. 793, C. M., est un

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**534.** The works ordered on municipal roads by any by-law made in virtue of the preceding article, are governed and determined by the by-law which prescribes them, even in cases in which they must be performed by the rate-payers bound to do work on such roads by *procès-verbal* or by the sole provisions of the law.

**535.** To order that all the local or county municipal roads or bridges for which the rate-payers are liable, and which are situate within the limits of the local municipality, be made, improved and maintained at the costs and charges of the corporation of such local municipality, out of moneys levied by means of direct taxation for such purpose, on all the taxable property in the municipality, or substitute the corporation in the place of the rate-payers of such municipality, in all obligations to which the latter may be bound in reference to all local and county municipal roads and bridges, over water courses and on roads.—The council may, however, except and leave in the keeping of the persons who are bound to do work thereon, front roads as well as roads

devoir de surveillance, et n'est pas limitée au cas qu'un règlement a été fait suivant l'art. 535.

30 Que lorsqu'un pont construit par le gouvernement du pays sur une rivière située dans la municipalité, a été emporté par les eaux, la corporation n'est pas passible d'amende faute de l'avoir fait reconstruire.

40 Semble que si le pont avait été construit d'après un arrêté de l'autorité municipale, et qu'une fois construit il aurait été détruit, la Corporation serait coupable de négligence faute de le faire reconstruire. *Giguère vs. La Corporation du Township de Chertsey, R. L., 255.*

A municipal corporation is only bound to maintain roads after it has passed a by-law under article 535 of the Municipal Code; and so long as no such by-law is passed no obligation lies upon the Corporation, and the obligation of maintaining roads remains full and entire on the rate-payers. *Parant vs. Corporation of St. Henri, 1 Q. L. R., 369.*

An indictment will be against the Corporation of a rural municipality for non-repair of a highway, although it is a front road of which each proprietor is bound to repair his frontage.

In such case where the corporation, after conviction, causes the road to be repaired, a merely nominal fine will be imposed, and costs will not be awarded in favor of the private prosecutor. *The Queen vs. The Corporation of the parish of St-Sauveur of Quebec. 3 Q. L. R., 283.*

or bridges leading exclusively to ferries or toll-bridges—This article does not apply to those referred to in article 749.—Any by-law made in virtue of this article shall only come into force on the first day of the month of January following its promulgation. (*R. S. Q.*, art. 6115). (1)

**536.** During the whole time that a by-law, passed in virtue of the preceding article, for the purpose of placing such works at the costs and charges of the municipal corporation, remains in force, no rate-payer is liable for work on roads or bridges thus placed at the charge of the corporation, and such corporation is substituted in the place and stead of the rate payers, in all the obligations they are under in respect of such works, whether they proceed from *procès verbaux*, by-laws, or

(1) *Held*: 1° That according to art. 793, a municipal corporation is liable to a fine, if it neglects to have the roads and bridges kept in the state of repairs required by law, or by by-laws or by *procès verbaux*;—2° That this obligation imposed by art. 793, M. C., is a duty of inspection and is not limited to the case where a by-law has been made according to art. 535;—3° That when a bridge built by the government on a river situated in the municipality, has been carried away by the waters, the corporation is not liable to a fine for not having rebuilt it;—4° *Semble* that if the bridge had been built, in virtue of a resolution of the municipal authorities, and when built, had been destroyed, the corporation would be guilty of negligence in not rebuilding it.—*Giguère vs. La Corporation du Township de Chertsey*, V. R. L., 235.

*Held*: That a municipal corporation is only bound to maintain roads after it has passed a by-law under article 535, M. C.; and although as no such by-law is passed no obligation lies upon the corporation, and the obligation of maintaining roads remains full and entire on the rate-payers.—*Parent vs. Corporation of St. Henri*, 1 Q. L. R., 869.

*Held*: That an indictment will lie against the corporation of a rural municipality for non-repair of a highway, although it is a front road of which each proprietor is bound to repair his frontage.

In such case where the corporation, after conviction, causes the road to be repaired, a merely nominal fine will be imposed, and costs will not be awarded in favor of the private prosecutor.—*The Queen vs. The Corporation of the Parish of St. Sauveur of Quebec*, III Q. L. R., 283.

*Jugé*: Que des travaux faits par une corporation municipale en changeant le niveau d'une rue, constituent, pour les propriétaires riverains, une expropriation partielle qui donne droit aux locataires d'obtenir une diminution du loyer ou une résiliation de leurs baux; que les locataires ont aussi, dans ce cas, un recours direct en dommage contre la corporation. *Motz vs. Holiwell et al.*, 1 Q. L. R. p. 64.

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the provisions of the law, under the same penalties as such rate-payers.

**537.** During the whole time such a by-law continues in force, every part of a *procès-verbal* or of a by-law which determines the work to be done, the manner in which it is to be done, the nature and quality of the work, and the duties of the road officers, remain in force and is obligatory upon the corporation; the other parts of the *procès-verbal* or of the by-law are suspended, and after the repeal of such by-law, revive and take effect.

**538.** The council may, by resolution, define the manner in which the money levied for such work must be expended and applied in the municipality.—It may also, for the execution of such work, make any contracts it thinks proper, in conformity with articles 786 and 787.

**539.** The road inspector of the division must take care that such work is executed by the corporation in the manner required by the *procès-verbaux* or by the provisions of law which govern the same.—In case of neglect, he must require the corporation to perform such work, and for any default so to do, prosecute it in his own name.

**540.** No by-law made in virtue of article 535, can be repealed except by another by-law voted by two-thirds of the members of the council, which shall only come into force on the first day of the month of January next after its promulgation.

**541.** To fix the time during which persons bound to keep in repairs winter roads under the control of the corporation must take down and keep the fences, mentioned in articles 836, levelled, in the manner set forth in such article; to compel such persons to put the fences up again; or to exempt them from taking them down. (52 V. c. 63, s., 4.)

**542.** To place turnpikes on bridges, or on macadamized, paved, or planked roads, under the control of the local corporation; and to levy tolls on persons, animals and vehicles passing over such bridges or roads,

The two last paragraphs of article 520 apply also to by-laws made in virtue of the preceding provision. (1)

## § II.

## PUBLIC PLACES.

**543.** To open, enclose, embellish, improve, maintain at the costs and charges of the corporation, squares, parks, or public places, of a nature to conduce to the health and well-being of the inhabitants of the municipality.

## § III.

## SIDEWALKS AND SEWERS.

**544.** To oblige the proprietors of lands situated on roads belonging to trustees or turnpike roads, on municipal or other roads, or on public places, in the whole municipality or in a part only of the municipality, to make and maintain on such roads or public places, in front of their respective properties, sidewalks of wood, stone or other material fixed upon.

**545.** To oblige such proprietors to make and maintain sewers in front of their respective properties.

**546.** To determine the manner in which such sidewalks or sewers must be made or maintained; and even to construct them at the expense of the corporation, or by apportionment upon a portion of the municipality. (*R. S. Q.*, art. 6116). (2)

(1) *Jugé*: Qu'un conseil municipal local n'a pas le droit de conférer un privilège perpétuel du droit d'établir un pont de péage sur une rivière située dans les limites de la municipalité locale, ni de défendre le passage à gué de telle rivière et d'imposer, à cette fin, une pénalité. *Corriveau et Corporation de la paroisse de St-Valier* 17 R. L., 440.

(2) *Jugé*: Qu'une corporation municipale qui fait faire des égouts aux frais de la Corporation, dans une rue, sous les dispositions de l'art. 546. C. M., ne peut en recouvrer le montant des propriétaires longeant la rue, sous les dispositions d'un règlement à cet effet, qu'en faisant un rôle de perception, conformément aux arts 954 et suivants, C. M. *Corporation du village de St-Gabriel vs. John S. Knox* 15 R. L., 480.

**547.** To belong to the municipal or other roads, either at the expense of the corporation or of the proprietors of such roads or of the inhabitants of the municipality.

**548.** To oblige the trustees or proprietors of such roads, or in any part thereof, to maintain them from any other source.

**548a.** To oblige the councils by a portion of the municipalities.

**549.** To determine the direction of the roads, and the amount to be paid for the same, or to obtain any fee for the same.

(1) *Jugé*: 1° Que le droit en vertu duquel le conseil municipal d'une ville ou d'une paroisse a le droit d'imposer une taxe sur les propriétés situées dans la ville ou la paroisse, pour le transport des marchandises, n'est pas contraire à la constitution. 2° Que l'on ne peut imposer une taxe sur les propriétés situées dans la ville ou la paroisse, pour le transport des marchandises, que si la taxe est mise en force, exécution. 3° Que l'on ne peut imposer une taxe sur les propriétés situées dans la ville ou la paroisse, pour le transport des marchandises, que si la taxe est mise en force, exécution. *La C. N.*, 40.

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## § IV.

## MISCELLANEOUS PROVISIONS.

**547.** To cause trees to be planted along roads, belonging to trustees of turnpike roads or along municipal or other roads, or along side-walks or public places, either at the expense of the persons bound to maintain such roads or sidewalks, or at the expense of the corporation.

**548.** To prevent parties from driving or riding faster than an ordinary trot, on roads belonging to trustees or turnpikes roads, or on municipal or other roads, or in public places within a radius of half a mile from any church.

**548a.** The powers granted to town and village councils by article 653 are extended to councils of rural municipalities. (53, V. c. 63, s. 5.)

## SECTION II.

## FERRIES.

**549.** To regulate the ferries which are under the direction of the corporation; and to determine the amount to be paid and the conditions to be observed to obtain any ferry license. (1)

(1) *Jugé*: 1° Que quoique le commerce et la navigation soient du ressort du Parlement Fédéral, néanmoins la Législature Provinciale a le droit en vertu de la sect. 92 de l'acte de l'A. B. N., d'autoriser une municipalité à imposer une taxe annuelle sur tout bateau traversier partant d'un endroit quelconque dans cette municipalité.

2° Que bien que le havre ne soit pas inclus dans les limites de la cité de Montréal cette dernière a le droit par le ch. 52 de 39 Vict., d'imposer une taxe de \$200, sur tout bateau à vapeur traversier transportant dans la cité des voyageurs d'un endroit n'étant pas à une distance de neuf milles.

3° Que l'on ne peut demander la cassation d'aucun règlement de la cité de Montréal après l'expiration des trois mois qui suivent sa mise en force, excepté lorsque ce règlement est inconstitutionnel ou contraire aux arts 954 et 955 de la Charte. La Cie de Nav. de Longueuil et la Cité de Montréal. vs. John S. L. N., 40.

*Jugé*: Que les limites de la municipalité de la ville de Longueuil

**550.** To fix or approve the tolls payable for crossing such ferries either in a boat, steamboat or other craft.

**551.** No by-law, made in virtue of the preceding articles, can fix or approve the tolls payable by certain persons at a less sum than those payable by others, nor give certain persons or localities advantages refused to others.

**552.** No license issued for a ferry can be granted for a period exceeding five years. (*R. S. Q.*, art. 6117).

**553.** If the ferry is under the joint control of two local municipalities, as prescribed by article 861, the council of either municipality may make by-laws respecting such ferry, under articles 549 and 550; but such by-laws have no force and effect until they are approved by a resolution of the council of the other municipality or in default of such resolution, by lieutenant-governor in council.

### SECTION III.

#### PLAN AND DIVISION OF THE MUNICIPALITY.

**554.** To have maps, plans of the municipality made — Maps or plans of the municipality, prepared at the expense of the corporation, must be made by a provincial surveyor and upon a scale at least four inches to the mile.

**555.** To divide the territory of the municipality into as many road divisions as may be deemed expedient for the superintendence and direction of work on municipal roads and bridges and any other work under the jurisdiction of the road inspectors.

**556.** To divide the territory of the municipality

*s'étendent jusqu'au milieu du fleuve St-Laurent, et qu'un quai situé dans ces limites et occupé par une compagnie de bateaux traversiers est sujet aux taxes imposées dans cette municipalité. La ville de Longueuil vs. la Cie de Navigation de Longueuil. 6 L. N. 291.*

*Jugé: Que les corporations municipales locales ont le pouvoir d'accorder un privilège exclusif de traversier (ferry) sur les rivières situées dans leurs limites.*

*Paquet vs. la Corporation de St-Lambert et al. 14 Q. L. R., 327.*

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for crossing into such rural divisions as may be deemed expedient for the purposes of superintendence and direction of the preceding works in connection with water-courses, fences, ditches, and all other undertakings under the jurisdiction of rural inspectors.

**557.** If the municipality is not divided into several rural or road divisions, it forms one division only.—If, in virtue of the two preceding articles any changes are made in the division of the municipality, while inspectors are in office, the jurisdiction of each must be determined by a resolution of the council; otherwise such inspectors continue in the exercise of their jurisdiction as if no changes had been made.

#### SECTION IV.

##### ABUSES PREJUDICIAL TO AGRICULTURE.

**558.** To prevent the cutting down, damaging or destruction of trees planted or kept for shade or ornament, as well on public roads as on private property.

**559.** To prevent or cause to be done away with all abuses prejudicial to agriculture and unprovided for by law.

**560.** To establish pounds, in which poultry or animals found straying on beaches, flats, roads or public places, or on the property of another than their owner may be impounded; to appoint keepers of such pounds, and to determine their fees.—The provisions of this article are binding on every town or village council, and every such council must comply therewith, within four months from the time when this code comes into force.

## SECTION V.

## SALE OF INTOXICATING LIQUORS.

§ I.

## PROHIBITION OF THE SALE OF INTOXICATING LIQUORS.

**561.** To prohibit the sale of intoxicating liquors in quantities less than two gallons, imperial measure, or one dozen bottles of not less than one pint each, imperial measure, at one and the same time, and the granting of licences therefor, within the limits of the municipality and on the ferries which are dependencies of such municipality. (*R. S. Q.*, art. 6118.) (1)

**561a.** To prohibit children or apprentices from frequenting taverns, hotels, restaurants and stores, in which intoxicating liquors are sold. (*Id.*, art. 6119.)

**562.** Every by-law made in virtue of article 561, whether for prohibiting the sale of intoxicating liquors and the issue of licenses therefor, or for repealing any such prohibitory by-law, only comes into force from the first day of the month of May which follows its promulgation, provided always that before such period an authentic copy thereof has been sent to the collector of provincial revenue of the district. (*Id* art. 6120.)

**563.** The collector of provincial revenue of the district cannot, so long as such by-law remains in force, issue licences, authorizing the vending or retailing of intoxicating liquors in a quantity less than two gallons, imperial measure, or one dozen bottles of not less than one pint each, imperial measure, at one and the same time, in any inn, tavern or other house, or place of public entertainment, store, shop, or other locality whatsoever in the municipality. (*Id.*, art. 6121.)

**564.** If a prohibitory by-law has been annulled, the collector of inland revenue cannot within two months

(1) Une corporation municipale n'a pas le pouvoir, en vertu de l'art. 561 C. M., de prohiber la vente des liqueurs enivrantes dans les limites de sa municipalité. *Ex parte* Edison et la Corporation de Hatley, 7 L. N., 68.



from the date of such judgment, grant any license, the issue of which the council prohibited or had the intention of prohibiting by such by-law so annulled.—During such interval, the council which passed the by-law so repealed, may make and put in force, according to the ordinary rules, another by-law for the same purpose, and send a copy thereof to the collector of provincial revenue of the district. (*Id.*, art. 6122).

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**565.** Licenses granted in contravention to the provisions of a prohibitory by-law, and to those of this code, are null and void, within the limits of the municipality where such provisions are in force.—No license issued to distillers, or brewers or for the retail of intoxicating liquors on board of any steamer or other vessel, or any other license whatsoever, can in any wise avail to render legal any act done in violation of this section.

**566.** In any municipality in which a prohibitory by-law, made in virtue of article 561, is in force, no person shall, under a penalty of fifty dollars or imprisonment for three calendar months, for each offence, expose or keep for sale, sell, barter, or give in exchange for any chattel or consideration, intoxicating liquors in smaller quantities than those prescribed by the said article. delivered, taken or carried away at one and the same time, by himself, his clerk, servant or agent, directly or indirectly, on any pretence whatsoever, unless it be for medicinal purposes or for use in divine worship, by the person appointed for the purpose by resolution of the municipal council and licensed therefor under the Quebec license law and in the latter case upon the certificate of a physician or upon that of a clergyman and not otherwise. (*Id.*, art. 6123).

**567.** All obligations contracted under any form, or in any manner whatsoever, for liquor obtained in contravention of the provisions of this section, are held to have been contracted without any consideration, and are null and void, except in so far as a subsequent purchaser for value received and in good faith is concerned. Any payment made, on such consideration, either in

money, work, or any other articles whatsoever, is also held to have been made without consideration, and to be null and of no effect, and the amount or value of such payment may be recovered from the receiver by the party who made the same, before any court of competent jurisdiction.

## § II.

### LIMITATION OF THE NUMBER OF LICENSES FOR THE SALE OF INTOXICATING LIQUORS.

**568.** To limit and determine the number of licenses which the collector of provincial revenue for the district may issue, for the sale of intoxicating liquors in taverns, inns, and other places of public entertainment, or in stores or shops. (*R. S. Q.*, art. 6124).

**569.** The articles 562, 565 and 567, apply also to by laws made in conformity with article 568.

**570.** If the council has passed a prohibitory by-law in virtue of article 561, the by-laws which have been made by the same council, in virtue of article 568, are suspended during the whole time such by-law continues in force.

## § III.

### MISCELLANEOUS PROVISIONS.

**571.** The by-laws made by the council of a rural municipality, in virtue of the provisions of this section, are not subject to appeal to the county council.

**572.** All municipal by-laws and all provisions in any municipal by-law relating to the sale of intoxicating liquors, in force at the time when this code comes into effect, other than those which may have been made in virtue of articles 561 and 568 are repealed, dating from the first day of May following the coming into force of this code.

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## SECTION VI.

STORAGE OF GUNPOWDER OR OTHER EXPLOSIVE  
SUBSTANCES.

**573.** To limit the quantity, not exceeding twenty-five pounds of gunpowder or of any other explosive substance, to be kept in any place other than a powder magazine; and to regulate the manner in which such gunpowder or other explosive substance must be stored.

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**574.** To authorize the construction of buildings in which any quantity greater than twenty-five pounds of gunpowder, or other explosive substance must be kept at one time, and also the walls or fences by which such buildings are to be surrounded at a fixed height and distance.—To prescribe the precautions which must be taken by any person whatever entering such buildings, or conveying gunpowder or other explosive substance, to or from the same, within the limits of the municipality.

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**575.** To restrict the storage of gunpowder, or any other explosive substance in quantities of twenty-five pounds or more, to certain limits within the municipality.

**576.** To provide that any gunpowder or other explosive substance, which is kept in a less quantity than twenty-five pounds, be placed in tin, lead or copper boxes.

**577.** To cause to be removed or confiscated any gunpowder or explosive substance, kept or conveyed contrary to municipal by-laws.

**578.** The municipal by-laws respecting the storage and conveyance of gunpowder, do not apply to Her Majesty's magazines or ammunition.

## SECTION VII.

## SALE OF BREAD AND WOOD.

**579.** To fix the weight and quality of the bread

sold or offered for sale in the municipality ; and prescribe the marks which it should bear.

**580.** To regulate the measuring of cord-wood, bark, lumber and shingles, offered for sale in the municipality.

**581.** To authorize the confiscation for the benefit of the corporation or of the poor of the municipality, of every articles offered for sale or sold or delivered, in contravention to the by-laws made in virtue of the provisions of this section.

## SECTION VIII.

### TRADE LICENSES.

**582.** To compel each of the following persons to take out a license from the corporation for the exercise in the municipality of his trade, occupation or calling, and to prevent the carrying on of such trade, occupation or calling, without such license.—1. Every broker or banker and every wholesale or retail trader, merchant and dealer, residing in the municipality or not, except such persons as are obliged to take out licenses from the government of the Province, in so far only as relates to the particular business for which they must have such license:—2. Every carter or common carrier.—No such license can be given for a longer period than twelve months.—The price fixed for granting any such license in virtue of this article must be proportioned to the extent of the business, trade or occupation of each person bound to take a license, and fixed at the discretion of the council, but such price must not exceed twenty dollars in the cases set forth in paragraph one, and twelve dollars in the case of paragraph two.—No municipal corporation shall however levy any tax upon any commercial traveller taking orders or selling goods, wares or merchandise, by sample, catalogue or price list, or require any such person to procure a license

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benefit of persons who do not reside, that is who have not their habitual and permanent residence, in the municipality, and who carry on the business or trade mentioned in paragraph one, provided such price does not exceed forty dollars for carters or common carriers. (*Id.*, art. 6126, as amended by 52 Vict., cap. 54, s. 9.)

**583.** Every carter or common carrier licensed as such in the local municipality in which he is domiciled, may convey any articles taken from such municipality, or any persons going therefrom, into any other municipality erected in virtue any law whatsoever, without paying to such other municipality any municipal license or taxes by reason of such conveyance.—He may also, without being bound to take out any other license or to pay any other tax, convey within the local municipality wherein he is licensed, goods or persons coming from any other municipality erected under any law whatsoever.—In the absence of any by-law under the preceding article, respecting carters or common carriers, the council may grant to any carter or common carrier, domiciled within the local municipality, a per-

(1) Under the statute permitting councils to make by-laws to compel "brokers or bankers, wholesale or retail traders, merchants or dealers, and carters or common carriers, "to take licenses from the corporation for the exercise in the municipality of their respective callings, a by-law was passed requiring a license to be taken by "any person not an inhabitant of the municipality who by himself or by others should come therein to carry on the trade of delivering, offering for sale or selling bread wholesale or retail."

Such by-law was *ultra vires*, there being no power in a municipality over persons not inhabitants of it; that the said by-law was in restraint of trade to the oppression of the subject, and consequently void; and it was further illegal by reason of not being in the very words of the law conferring the right to taxes. The Corporation of St. Roch South *vs.* Dion. 1 Q. L. R., 241.

mit which secures to him the rights conferred by the two preceding provisions. (2)

## SECTION IX.

### PERSONAL TAXES.

**584.** To levy annually the taxes hereinafter mentioned upon the following persons:—1. Upon every tenant who pays rent, a sum not exceeding five cents in the dollar upon the amount of his rent;—2. Upon every male person of twenty-one years of age, residing in the municipality and not otherwise taxed in virtue of this code, a sum not exceeding one dollar (as amended by 52 Vict., cap. 54, s. 10.)

**585.** The valuers in office of the municipality are bound to make each year, upon order of the council, in the manner and at the time it prescribes, a return of all the persons taxed by the council in virtue of the preceding article.—Upon the refusal or neglect of the valuers to make such return in the manner and at the time prescribed, the council may have it made by one or more persons whom it appoints for that purpose.

## SECTION X.

### INDEMNITIES AND RELIEF.

**586.** To indemnify persons whose property has been destroyed or injured, either wholly or in part, by rioters, within the limits of the municipality.

**587.** To contribute to the maintenance or support of poor persons residing in the municipality who, from

(2) A carter domiciled in a municipality outside of the city of Montreal, and duly licensed as a carter by such municipality, is entitled under art. 583 M. C. to convey goods from said municipality into the city of Montreal without having a license from the city.—*Richer vs. The city of Montreal*, 7 L. N. 79.

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red by one infirmity, old age, or other cause, are unable to earn their own livelihood.

**588.** To relieve any person who has received any wound or contracted any sickness or disease at a fire.

**589.** To grant rewards, in money or otherwise, to any person who performs a meritorious action at a fire, or who saves or endeavors to save any one from drowning or from other serious accident.

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**590.** To provide for the wants of the family of any person who loses his life at a fire, or while saving or endeavoring to save any one from a serious accident.

**591.** To establish and maintain poor-houses, houses of refuge, or other establishments for the refuge and relief of the poor and destitute; to give domiciliary relief to the poor residing within the limits of the municipality; and to aid charitable institutions established in the municipality or its neighborhood.

## SECTION XI.

### PUBLIC NUISANCES.

**592.** To compel the proprietors or occupants of houses to clean their stables, cattle-sheds, pigsties, out-houses, privies, and the yards connected with such buildings, at such times and in such manner as the council seems expedient.

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**593.** To prevent the making deposits of substances or matters from whence issue noxious gases or odors, such as coal oil, superphosphate of lime in course of preparation, *detritus* or remains of dead animals, the contents of privies and the like; and to regulate the mode of making such deposits. (*R. S. Q.*, art. 6127).

**594.** To prevent any persons from letting off fireworks or fire crackers, discharging fire-arms, lighting fire in the open air, in the streets or roads, or in the neighborhood of a building, grove or fence.

**595.** To order dogs to be kept muzzled or tied up; to prevent them from being at large without their mas-

ters or other persons to take charge of them ; to impose a tax not exceeding ten dollars on the owners of every dog kept in the municipality ; and to authorize any municipal officer or other person to destroy, by poison or otherwise, all dogs found at large, contrary to municipal regulations.—The penalty imposed for any contravention of the by-laws made under this article may be recovered, except in so far as respect the tax, from persons residing outside the municipality, whose dogs are found in contravention of such by-laws. (*R. S. Q.*, art. 6128).

**596.** To regulate the manner in which public or private slaughter houses must be built and kept in repair.

## SECTION XII.

### DECENCY AND GOOD MORALS.

**597.** To prevent the desecration of all burial grounds, tombs, graves, monuments, or vaults in which the dead are buried.

**598.** To suppress every kind of gambling and the existence of gambling houses and houses of ill-fame, and to authorize any constable to arrest each and every person found therein. (*R. S. Q.*, art. 6129).

**599.** To prohibit circuses, theatres or other public exhibitions from being held ; to regulate and permit them to be held upon such conditions as may be deemed fit, and subject them to a duty or tax which must not exceed fifty dollars for each performance.—Every tax imposed by a by-law made in virtue of this article, if it is not paid on demand, may be levied upon all moveables and effects, even upon those which are ordinarily exempt from seizure, found in the possession of any of the persons connected with such circus, theatre or exhibition, under a writ of seizure, signed by the mayor or by a justice of the peace, and executory forthwith, without other preliminary formality.

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places of public entertainment, to be closed from seven o'clock in the evening on Saturday, until the following Monday at four o'clock in the morning.

**601.** To prevent, on Sunday and holidays of obligation, horse races and all other horse exercises upon any race course or place whatever.

**602.** To prevent cock fights, dog fights and every other cruel amusement; and punish whoever takes part in or is present at them.

**603.** To prevent profane oaths, and blasphemous and obscene language from being used on roads, squares, or in their vicinity.

**604.** To prevent the posting up, or the making or writing of indecent placards, paintings, drawings, words or inscriptions, upon houses, walls or fences, and on roads or squares.

**605.** To prevent persons from bathing or washing themselves in public waters, or in the open air, close to the public roads or squares, or to regulate the manner in which bathing in such places may be performed.

**606.** To prevent all persons, even those having licenses, from selling or giving intoxicating liquors to any child, apprentice or servant, without the consent of the father, mother, master or legal guardian thereof.

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### SECTION XIII.

#### PUBLIC HEALTH.

**607.** To establish boards of health and appoint the members thereof.

**608.** To take proper measures for securing the inhabitants of the municipality from contagious or pestilential diseases, or for diminishing the danger resulting therefrom.

## SECTION XIV.

## MISCELLANEOUS PROVISIONS.

**609.** To erect in the municipality, if there is no district gaol in such municipality, a lock-up house for the incarceration of persons sentenced to a term of imprisonment not exceeding thirty days, in virtue of the provisions of this code or of the municipal by-laws.

**610.** To encourage, establish and maintain fire companies or firemen for the protection of property.

**611.** To limit the number of general or ordinary sessions of the council, to not less than four in the year.

**612.** To oblige the proprietors and occupants of lands to fence the same along municipal or other roads.

**613.** To enclose at the cost of the corporation, any land recognized as a public cemetery.

**614.** To establish and maintain public drinking fountains in the municipality.

**615.** To impose a duty, not exceeding fifty dollars, on certificates approved by the council, to obtain a license for keeping any inn, tavern, temperance hotel, or other house or place of public entertainment (as amended by 53 V., c. 63, s. 6.)

**615a.** (Added by 53 Vict., chap. 64). To provide for the construction and administration of aqueducts, public wells or reservoirs and prevent the public water from being dirtied or wasted."

To grant for any number of years, to any company, person or firm of persons, who shall undertake or have undertaken the construction of an aqueduct, public wells or reservoirs, or who undertake the administration thereof, an exclusive privilege to lay pipes for the supply of water within the limits of the municipality and to contract for the supply of water for one or more years, but not to exceed twenty-five years."

**615b.** (Added by 53 Vict., chap. 64). To grant to any company, person or firm of persons who undertake or have undertaken the construction or administration of an aqueduct, public wells or reservoirs the right of laying pipes for the said aqueduct in the roads or streets

in the ditch roads and works as an aqueduct."

**615c.** (Added by 53 Vict., chap. 64). To grant from municipalities for five years, to any person who undertakes the administration of the said aqueducts, and not of the said aqueducts, the said period

BY-LAWS SPECIALLY

**616.** Every person who makes, amends or alters any of the aqueducts mentioned in

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**617.** To divide the municipality into wards as is deemed proper by the council. The council may in the course of the year forward : and to fix the boundaries of the municipal electorates. The council may in the course of the year divide the municipality into wards, but the term of

(1) *Jugé*: Qu'un conseil municipal ne peut légalement abolir le droit de modifier les limites d'un quartier sans qu'il n'y ait aucune injustice résultant de la suppression. *Lequin vs. M.*

in the ditches or under the sidewalks along the public roads and streets of the municipality, and to do such works as may be necessary for the purposes of the said aqueduct."

**615c.** (Added by 53 Vict., chap. 64). To exempt from municipal taxes, for a period not to exceed twenty five years, every company, person or firm of persons who undertake or have undertaken the construction or administration of an aqueduct, public wells or reservoirs, and not to impose any municipal taxes on account of the said aqueduct, public wells or reservoirs during the said period."

## CHAPTER V.

### BY-LAWS SPECIALLY WITHIN THE JURISDICTION OF TOWN OR VILLAGE COUNCILS.

**616.** Every town or village council may further make, amend and repeal by-laws for any of the objects mentioned in this chapter. (1)

## SECTION I.

### DIVISION OF THE MUNICIPALITY INTO WARDS.

**617.** To divide the municipality into as many wards as is deemed expedient for the purposes of representation in the council; to determine the limits of each ward: and to fix the number of councillors that the municipal electors of each ward may appoint to represent them in the council, so that the councillors of the municipality shall number seven in all, and in such manner that the term of office of each of such councillors shall

(1) *Jugé*: Qu'un règlement d'une municipalité de village peut être légalement abrogé par une résolution passée par le conseil ayant le droit de modifier le règlement, quand c'est fait de bonne foi, si aucune injustice réelle n'est résultée de cette abrogation par résolution. *Lequin vs. Meigs*. 16, L. C. J., 153.

be three years, save in so far as regards the term of office of the councillors elected at the first general election after the coming into force of the by-law, or appointed by the lieutenant-governor in the absence of an election. —Nevertheless in village municipalities in which the population exceeds ten thousand souls according to the last general census, or to a special census certified by the mayor or secretary-treasurer, the number of councillors shall be nine and the quorum shall be five members when the village has been divided into wards. (Amended by 52 Vict., cap. 54, s. 11).

**618.** The by-laws made in virtue of the preceding article, must determine the manner in which councillors elected at the first general election, or appointed by the lieutenant-governor in the absence of an election, shall go out of office, so that as many councillors for each ward shall be elected or appointed as go out of office.

**619.** At the time of the general municipal election which follows the coming into force of any by-law made under art. 617, dividing or redividing any municipality into wards, the councillors then in office retire therefrom, and seven councillors, within the whole municipality, must be elected, or appointed by the lieutenant-governor in the absence of an election, and nine in the case provided for by the second paragraph of article 617. (Amended by 52 Vict., cap. 54, s. 12.)

**620.** In every municipality divided into wards for the purpose of municipal representation, the meeting of the municipal electors of each ward is convened to be held in each of such wards, at the place named in the public notice.

**621.** If more persons are proposed for election in a ward than there are councillors to be elected, the presiding officer must proceed to hold a poll for such wards, at the place of meeting itself, in the usual manner.

**622.** Municipal electors can only vote in the ward in which they are duly qualified electors.—If they are duly qualified as municipal electors in several wards, they may vote in each ward in which they possess such qualification.

**623.** To meeting and wards, as municipalities

**623a.** To proprietors able real estate into three wards 617 and 618 to pass a by-law general meeting, the lieutenant-governor, with art. 6130).

**624.** To servants, hired persons, they be of age, addresses, and towards the following article, servants, hired persons, whether of age, mistresses, and the former, in the case of the law in rural municipalities or townships

**625.** To establish public markets



**623.** The council must appoint, to preside at the meeting and in the holding of the polls in the various wards, as many poll clerks as there are wards in the municipality.

**623a.** The council, on a petition to that effect, of the proprietors representing two-thirds in value of the taxable real estate, is bound to divide the municipality into three wards at least, in conformity with articles 617 and 618. — On the refusal or neglect of the council to pass a by-law for that purpose, at one of the two general meetings following the presentation of the petition, the lieutenant governor in council may make such division, with the same effect as the council. (*R. S. Q.*, art. 6130).

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## SECTION II

### MASTERS AND SERVANTS.

**624.** To regulate the conduct of apprentices, servants, hired persons, day laborers or journeymen, whether they be of age or minors, towards their masters or mistresses, and the conduct of masters and mistresses towards the former. — In default of by-laws made under this article, regulating the conduct of apprentices, servants, hired persons, day-laborers or journeymen, whether of age or minors, towards their masters or mistresses, and that of masters and mistresses towards the former, in any village or municipality, the provisions of the law respecting masters and servants in force in rural municipalities, are applicable within such village or town municipality.

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## SECTION III.

### PUBLIC MARKETS.

**625.** To establish change, abolish or keep in order public markets or places in which public markets are

held, or to permit the establishment thereof; and to regulate the lease of stalls and stands therein, for the sale or offering for sale of every description of merchandise or wares, or of any specific commodity. (*R. S. Q.*, art. 6131). (1).

**626.** To determine and define the duties and powers of all officers employed on and private proprietors of any public market, within the whole extent of the municipality. (*R. S. Q.*, art. 6132. (2)

**627.** To prevent any person, residing in the municipality, from selling or exposing for sale in the municipality, provisions, grain, wares, or other merchandise, elsewhere than upon the markets of the corporation.

**628.** To prevent any person residing in the municipality, from cutting up or weighing any meat, whether beef, mutton, lamb, veal, pork, or salt beef, for the sale thereof, or from exposing the same for sale, on any such markets, elsewhere than in a butcher's stall or in a stall for the sale of salt provisions, provided that nothing contained in this article shall be deemed to prohibit the sale on such markets, by farmers or sportsmen, of any kind of meat and venison not cut up, or in quarters only.

**629.** To prevent or to allow the sale, by residents or non residents in the municipality, of any kind of fresh or unsalted fish, in such manner and at such places as may be fixed upon, the whole without prejudice to anything contained in the laws, relating to fishing and hunting.

**630.** To regulate the conduct of any person selling

(1) *Jugé*: Qu'une obligation par laquelle un contribuable s'oblige envers une corporation municipale de village à lui payer une certaine somme, si un marché que la corporation se propose de construire est bâti à un endroit désigné dans l'écrit qui constate l'obligation, a une cause légale et est valide et le montant peut en être recouvré en justice après la construction du marché à l'endroit indiqué. *La Corporation du village de Waterloo vs. Girard.* 16 L. C. J.

(1) *Jugé*: Que les corporations municipales ne peuvent, en vertu de l'article 627 du Code municipal, empêcher les contrats pour la vente d'effets non alors exhibés, ni se trouvant dans la municipalité, d'empêcher l'exécution d'un tel contrat. *McBean vs. Gosselin et La Corporation du village de St-Sauveur de Québec.* 18 R. L., p. 71.

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or exposing for sale, purchasing or seeking to purchase upon such markets.

**631.** To impose duties on all persons selling on the roads or on the markets or market places of the corporation, any provisions, vegetables, butchers' meats, poultry, grain, hay, straw, fire-wood, shingles and other articles. (1)

**632.** To impose duties upon wagons, carts, sleighs, boats, canoes and vehicles of all descriptions in which articles are exposed for sale upon the markets, on the public roads or ways, or upon a beach.

**633.** To regulate the manner in which such wagons, carts, sleighs, boats, canoes and vehicles shall be placed in the markets or market places, or on the roads.

**634.** To restrict and make regulations affecting hucksters, or persons who purchase for the purpose of retailing articles brought into the municipality.

**635.** To determine whether articles brought into or produced in the municipality, to which no provision of the law applies must be sold by weight or measure. *R. S. Q., art. 6133).*

**636.** To authorize the confiscation, for the benefit of the corporation or the poor of the municipality, of all goods, wares, or articles bought or sold or delivered in contravention to the by-laws made in virtue of the provisions of this section.

#### SECTION IV.

##### WATERS AND LIGHTS.

**637.** To provide for the establishment, protection and management of aqueducts, public wells or reser-

(1) *Jugé*: Que par les dispositions des paragraphes 27, 31 et 32, de la section 123 de la 37 V., ch. 4 (Q.) le conseil de la cité de Montréal est autorisé à faire des règlements pour établir et régler les marchés publics et les étaux privés des bouchers ou des regrattiers, et pour régler, licencier ou restreindre la vente des viandes fraîches, etc., et que les dispositions de ce statut sont dans la limite des pouvoirs de la législature provinciale. Laurent Pigeon et La Cour du Recorder de la Cité de Montréal et la Cité de Montréal. 33 L. C. J., 221.

voirs, and to prevent the same from being fouled or wasted —To grant, for a fixed number of years to any company, person, or firms of persons, who undertakes to construct an aqueduct, public well or reservoir, or who assumes the management thereof, an exclusive privilege of laying pipes to supply water within the limits of the municipality, and to enter into a contract for such supply of water for one or more years, but for a period not exceeding twenty-five years. *R. S. Q., art. 6134*)

**637a.** To provide, over and above any tax, for the establishment or for the maintenance of aqueducts, public wells or reservoirs, for the payment of a compensation for the water, according to such tariff as it deems meet, by every proprietor, tenant or occupant of any house, shop or like building, whether or not the latter avail themselves of the water, provided always that the council cause a notice to be served on them to the effect that it is prepared to conduct the water, at its own expense, into or near their houses, shops or buildings. — Every by-law to compel proprietors, tenants, or occupants to pay such compensation for water before having force and effect, must be approved by the majority of the electors being proprietors of real estate in the municipality who vote on such by-law, and by the lieutenant-governor in council; provided always, that the number of those who vote in favor of such by-law is at least one-third of the total number of electors being proprietors. — In the case of part of a municipality, a by-law may be passed for that purpose, when required by petition signed by two thirds of the electors who are proprietors in the territory affected by such by-law, without its being necessary to submit the by-law to the approval of the municipal electors. — Every proprietor having one or more tenants, sub-tenants or occupants is liable for the payment of such compensation in the event of his refusing or neglecting to furnish a distinct and separate supply pipe to each such tenant, sub-tenant or occupant. (*Id.*, art. 6135 as amended by 52 Vict., c. 54 s. 13.)

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aidy to any company, person or firm of persons undertaking the construction of an aqueduct, public well or reservoir, during such period as may be agreed upon.— Every by-law passed in virtue of the present article, must, before having force and effect, be approved by the majority of the proprietors of real estate in the municipality who vote on such by-law, and by the lieutenant-governor in council; provided always, that the number of those who vote in favor of such by-law is at least one-third of the total number of proprietors. (*Id.*)

**638.** To provide for the lighting of the municipality, in any manner deemed suitable.

**639.** To compel the owners or occupants of lands situated as well in the municipality as in the neighboring municipalities, not more than thirty miles distant, to permit and allow all works undertaken for the purpose of providing the inhabitants of the municipality with water or light, to be carried on, and the taking possession, for the purpose of supplying and feeding, such water-works and other hydraulic constructions, of the lakes, non navigable rivers, ponds, springs and water-courses having their source or flowing on private property; without, however, prejudicing the rights of the riparian proprietors to make use thereof, as well under the common law, as under the law respecting the improvement of water courses, subject to the indemnity to be determined by the arbitration to that effect made under articles 640a, 640b, 640c, 640d, 640e, 640f, 640g, 640h. (*R. S. Q.*, art. 6136).

**640.** To transfer its rights and powers, respecting the supplying of water to any company, person or firm of persons who wishes to take charge thereof, provided that such company, person or firm does not exact, for the supplying of the water, higher rates than those fixed and approved of by by-laws of the council; and the council may take stock in such company, or lend money to such company, person or firm of persons.— Every by-law passed under this article, is subject to the provisions of article 482. (*Id.*, art. 6137).

**640a.** If the municipal council, or the company, person or firm of persons in the rights of the council, cannot agree with the proprietors or owners of the lands upon the amount of the indemnity, the expropriation is proceeded with in the manner mentioned in the following articles. (*Id.*, art. 6138).

**640b.** A disinterested person is appointed by the municipality or company, person or firm of persons in the rights of the municipality, and another is appointed by the proprietors or the possessor of the land damaged, which two persons appoint a third, and all three shall act as arbitrators in the matter in dispute between the parties. (*Id.*).

**640c.** The delay to appoint such arbitrators, is eight days, counting from the service of a notice given for such purpose by one of the parties to the other. (*Id.*).

**640d.** If within the delay of eight days, one of the parties makes default to appoint his arbitrator, such arbitrator may be appointed by a judge of the superior court in the district in which the land to be expropriated is situated, upon petition presented in chambers on the eighth day counting from the service of a notice to that effect upon the party in default. (*Id.*).

**640e.** The delay to appoint the third arbitrator is three days counting from the acceptance of the arbitrators. (*Id.*).

**640f.** If, within such three days, the arbitrators make default to appoint such third arbitrator, he may be appointed by any judge of the superior court in the district in which the land to be expropriated is situated, upon a petition presented in chambers, on the eighth day after notice to that effect, given by either of the parties interested, to the other. (*Id.*).

**640g.** The service of the notice and of the petition must be either personal or at the domicile of the parties interested by a bailiff of the superior court; and if the party interested is absent, the bailliff intrusted with making such service, must in his return certify such absence.— Notice must be given to the absent party according to article 68 of the Code of Civil Procedure,

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company, and such notice is considered sufficient for all the purposes of the expropriation. — All other notices, petitions and proceedings that require to be served upon the absent party for the purposes of the expropriation may be served in the office of the prothonotary of the superior court for the district in which the property to be expropriated is situated, which is held to be the domicile of the absent party for the purposes of the expropriation. (*Id.*)

**640h.** The award to be rendered by the arbitrators in the cases provided for by the preceding articles is final and without appeal.

**640i.** In village municipalities in which the population exceed ten thousand souls according to the last general census, or to a special census certified by the mayor or secretary-treasurer, the taxes destined to the payment of interest on municipal debentures issued for the purpose of providing for the cost of constructing water-works or under-ground drains, as well as those destined to the payment of the sinking fund or to the redemption of such bonds, may be levied upon the annual value of the taxable real estate, liable for the payment of the sinking fund or the redemption of such debentures and shall be levied according to the last valuation roll. (*Id.* as amended by 52 Vict., cap. 54, s. 15).

## SECTION V.

### PUBLIC NUISANCES.

**641.** To cause the removal at the expense of the owners or occupants of any door-step, stairs, porches, railings, balconies, buildings or other erections which project beyond the line of the public road, or obstruct public communication, and to compel the latter to require the running of the line of the public highway before building. (*R. S. Q.*, art. 6139).

**642.** To cause to be pulled down and removed all walls, chimneys or buildings in a state of dilapidation

or decay, or threatening to fall down; and to fix at what time, by what means, and at whose expense the same shall be so pulled down or removed.

**643.** To prevent the throwing into any public road or way, lane or passage, any sweepings, filth, dirty water, or other ordure; and order the removal thereof at the expense of the corporation or of those who caused such nuisances.

**644.** To compel the owner or occupant of a piece of land bordering upon a road or square, to remove the snow, ice, or filth, from the sidewalk or road fronting such land, even in cases where the road work is at the costs and charges of the corporation; to remove the snow and ice from the roofs of houses or other buildings erected on the public roads; and order the road inspector to cause such nuisances to be removed, at the expense of the owner or occupant who refuses or neglects so to do.

**645.** To obviate and prevent the obstruction of the sidewalk, roads and squares. (1)

**646.** To regulate the construction of privies and cellars, and the manner in which they are drained.

**647.** To prevent the erection of wooden buildings or fences within the municipality, or in any specified part of it.

**648.** To prevent the erection in the municipality, of manufactories or machinery propelled by steam; to permit them upon certain conditions, or to determine the places in the municipality where they may be erected.

**649.** To prevent or regulate the construction of slaughter houses, gas-works, tanneries, candle or soap

(1) *Jugé*: Qu'une corporation municipale n'a pas le droit de faire planter des bornes entre les rues et les terrains des particuliers qui les avoisinent, de manière à déterminer, par là, la limite de la rue, sans avoir obtenu le consentement de ces particuliers à ce bornage, ou, à défaut de tel consentement, sans avoir pris les procédés ordinaires en bornage devant les tribunaux, et qu'une résolution du conseil autorisant un délégué à aller, accompagné d'un arpenteur, planter telles bornes, est illégale, et sera déclarée telle sous l'art. 997 C. P. C. *Irving vs. Le maire et le conseil de la ville d'Iberville.* 6 R. L., 241 et 6 R. L., 350.

factories, may become a source of slaughter and diseases.

**650.** To prevent the depositing or leaving on any public road or way, any substances which border the road.

**651.** To prevent the erection of cellars, privies, and other unhealthy structures, and render them safe.

**652.** To prevent the erection of any building on which there is a danger of falling, and to order them up; and to order the removal of such persons who are liable to under

**653.** To prevent the erection of any building and stove pipe, and to order the removal of every

**654.** To prevent the erection of any other building, and to order the removal of any number of fire escapes, ladders from the building, and to order the removal of any

houses or buildings, and to order the removal of any coat of cement, or any other substance, which is thick and underneath the building, and to order the removal of any penalty for every offence whereof is fixed

**655.** To prevent the erection of any cattle shed, and to order the removal of any

to fix at factories, distilleries and other manufactories which  
expense the may become public nuisances ; and to cause the remo-  
val of slaughter-houses then existing in the municipa-  
lities.

**650.** To prevent any person from carrying, depo-  
siting or leaving in the municipality, or in the waters  
which border upon it, dead bodies or other deleterious  
substances.

**651.** To oblige the owners or occupants of all gro-  
ceries, cellars, manufactories, tanneries, drains or other  
unhealthy and unwholesome places, to keep them clean  
and render them wholesome.

**652.** To compel all owners or occupants of lands  
on which there are stagnant waters, to drain or fill  
them up ; and, in case of neglect or refusal on the part  
of such persons, to authorize the officers of the corpora-  
tion to undertake such work at their expense.

## SECTION VI.

### MISCELLANEOUS PROVISIONS.

**653.** To prescribe the mode of placing stoves, grates  
and stove pipes, and making chimneys, furnaces and  
ovens of every description ; and to regulate their use.

**654.** To oblige owners or occupants of houses or  
other buildings to provide themselves with a fixed  
number of fire-buckets, or with any other apparatus  
suitable for preventing accidents by fire, and to have  
ladders from the grounds to the roofs of their houses, and  
thence to the ridge of the roof.—To order that such  
houses or buildings be not covered with shingles, unless  
a coat of cement or adhesive mortar, at least one-half  
inch in thickness, be placed upon the boarded roof,  
underneath the shingles, and between both, under a  
penalty for each contravention of a fine, the amount  
whereof is fixed in the by-law. (*R. S. Q.*, art. 6140.)

**655.** To prevent any person from entering any  
cattle shed, stable, pig-sty, barn or out-house with a

light not enclosed in a lantern, or with a lighted cigar or pipe, or from carrying into the same any fire without proper precaution.

**656.** To prevent any person from lightening or having any fire in any out-house, pig-sty, barn, shed or other building, unless such fire be placed in a chimney or in a metal stove connecting with a chimney. (*R. S. Q.*, art., 6141).

**657.** To prevent any person from carrying fire in or through any public road or way, or through any garden, yard or field, unless such fire be contained in a metal vessel.

**658.** To compel proprietors or occupants of barns, hay-lofts or other buildings, containing combustible or inflammable materials, to keep the doors thereof closed.

**659.** To compel the owners or occupants of houses to have their chimneys swept; to determine the mode in which such sweeping must be done, and the number of time such chimneys must be swept within a given period; and appoint the chimney-sweeps to be employed.

**660.** To prevent the sale of gunpowder or other explosive substance after sunset.

**661.** To prevent or regulate the construction of furnaces for making charcoal.

**662.** To determine the manner in which ashes or quicklime must be kept or stored.

**663.** To provide for the purchase of engines, apparatus or articles suitable for the prevention of accidents by fire, and arresting the progress of fires. (1)

**664.** To prevent thefts and depredations at fires.

(1) Village councils having under the Municipal Code the power to purchase fire engines, the council of the Village of L'Assomption has bound the corporation by the purchase it has made of a fire engine, and the council had power to buy the same on credit, and thereby the council has bound the corporation, and the latter has been legally obliged to pay the debt contracted by said council; and it is a mistake to say that the council could make such purchase only after the corporation had passed a by-law providing for the payment of the fire engine. *Corporation of L'Assomption vs. Baker*, 4 L. N., 370.

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(1) *Jugé: Qu* s. 27 qui décrèt l'autorité civile autorise des jug milice ne peut é la milice aurait de Montréal. 20

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**665.** To authorize certain persons to blow up, destroy and pull down as many buildings as may be deemed necessary to arrest the progress of a fire, saving recourse for any damages and indemnities payable by the corporation to the owners of such buildings. — In the absence of any by-law made in virtue of this article, the mayor may, in the course of a fire, exercise this power by giving a special authorization. — The corporation can always, even in the absence of any by-laws or special authorization by the mayor to that effect, award and pay an indemnity to any person who has suffered loss and damage by the demolition of his buildings during a fire.

**666.** To regulate the conduct of every person present at a fire.

**667.** To determine the level and height of the sidewalks, safety and division walls upon the public road or way whenever the council deems it expedient for the convenience, safety and benefit of the inhabitants of the municipality.

**668.** To maintain, arm, lodge and clothe a police force in the municipality; and to fix the duties of the members of such force. (1)

(1) *Jugé*: Que, sous les dispositions du S. du C., 31 Vict., ch. 40, s. 27 qui décrète que la milice active pourra être appelée à aider l'autorité civile, dans le cas d'émeute, ou autre cas d'urgence et qui autorise des juges de paix à l'appeler, le paiement des services de la milice ne peut être refusé par la Corporation municipale, parce que la milice aurait été appelée sans raison. *Mackay vs. Le Maire et al.*, de Montréal. 20 L. C. J., 221.

*Jugé*: Qu'une corporation municipale est responsable en dommages, pour les assauts commis par ses hommes de police, quand ces assauts sont approuvés et que la corporation a essayé de les justifier. La Corporation de Montréal et Doolan. 1 R. L. 84; 13 L. C. J., 71. Voyez aussi 18 L. C. J., 124 et 3 R. L., 433 et 30 L. C. J., 41.

*Held*: That the City of Montreal is responsible for the acts of the members of its police force.

That the members of the police force of the City of Montreal are agents, employees and préposés of the said city, and if members of the said police force, while in the exercise of their function as such, commit any unlawful or unauthorized act, they render the said city liable for the same. *Laviolette vs. Thomas et al.* 31 L. C. J., 197.

*Jugé*: Les corporations municipales ne sont pas responsables des actes, non autorisés ni adoptés par elles, des constables, ou agents

**669.** To cause the houses and lots situated on the roads in the municipality to be numbered, and to give names to the streets and roads and to alter the same. (52 Vict., cap. 54, s. 16).

**670.** To have the streets and side-walks swept, watered and kept in good order; and to have the snow removed therefrom at the expense of the corporation.

## CHAPTER VI.

FORMALITIES TO BE OBSERVED BEFORE MUNICIPAL BY-LAWS ARE CARRIED INTO EFFECT OR PUT INTO FORCE.

### SECTION I.

APPROVED BY MUNICIPAL ELECTORS.

**671.** Whenever it is prescribed that a by-law must be approved of by the municipal electors before coming into force and effect, the council who has passed such by-law, orders, by resolution, that a public meeting of the electors of the municipality be held for the purpose of approving or disapproving such by-law, and that a poll be held for such object.

**672.** If the by-law has been passed by the county

de police, que la loi les autorise à nommer et à destituer. *Rousseau vs. la Corporation de Lévis.* 14 Q. L. R., 376.

*Jugé:* Qu'une corporation municipale n'est pas responsable en dommages pour une arrestation faite par un homme de police qui n'est pas à son emploi mais qui est nommé par des commissaires indiqués par la loi. *Corporation de la Cité de Québec et S. S. Oliver.* 15 R. L., 319.

*Held:* 1° That the City of Montreal is liable in damages for an unjustifiable assault committed on a citizen by a policeman while on duty.  
2° That without identifying such policeman by name or number, it is sufficient to prove that he was one of a squad wearing the policeman's uniform and carrying the baton.

3° That plaintiff having sued for \$1,000 and obtained \$200, he would be awarded the costs of an action of \$200. and be condemned to pay defendant the difference between the costs of an action of \$1,000 and one of \$200, the Court ordering compensation *pro tanto*. *Guenette vs. City of Montreal.* 4 M. L. R., 69.

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council, it is submitted for the approval of the municipal electors of the county in each local municipality of the county; and the meeting is convened by the warden, for the same day, at ten o'clock in the forenoon, in each of such local municipalities.

**673.** The day for which the meeting of municipal electors is convened, must not be less than twenty days or more than thirty days after the passing of the by-law by the council.

**674.** The meeting of the municipal electors is held at the place where the local council holds its sitting.

**675.** A certified copy of the by-law submitted for the approval of the municipal electors must be posted up, at least fifteen days before the holding of the meeting, in the places where municipal by-laws are ordinarily published, and it must be inserted twice at full length in one or more newspapers before such meeting, subject to the application of articles 243 and 244. (*R. S. Q.*, art. 6142).

**676.** A certificate of the secretary-treasurer certifying that the copy of the by-law, passed by the council, and also the notice convening the municipal electors, must be posted up and published at the same time and in the same manner as the copy of the by-law.

**677.** The meeting of the electors is presided over, in each local municipality, by the mayor, or in his absence, by a person chosen by the meeting.

**678.** The secretary treasurer of the local council is bound to be present at such meeting, with the original or a certified copy of the valuation roll in force; and he acts at such meeting as poll clerk.

**678a.** The presiding officer after opening the meeting and reading the by-law, is bound to open the poll without delay, and to proceed to the registration of the votes. (*R. S. Q.*, art. 6143). (1)

(1) *Jugé*: Que le défaut de lecture d'un règlement n'annule pas le règlement, mais rend l'officier chargé de faire cette lecture passible de la pénalité imposée par la loi. *Parent vs. La Corporation de la paroisse de Saint-Sauveur*, 2 Q. L. R., 258.

**679.** The person presiding at the meeting has no right to vote thereat.

**680.** Articles 300, 301, 306, 315, 316, 317, 318, 319, 322, 323, and 324, apply also *mutatis mutandis*, to a meeting convened for the approval or disapproval of a municipal by-law, to the person who presides at such meeting, or to the poll which is held thereat.

**681.** Every municipal elector, except in the case of article 497, is qualified to vote for or against the by-law submitted. The electors give their vote "yea" or "nay;" the word "yea" meaning that they approve of the by-law, and the word "nay" that they disapprove of it.—The poll books are kept in the same manner as those used at an election of municipal councillors, except in so far as the contrary is prescribed in this section.

**682.** At the close of the poll, the presiding officer counts the "yeas" and "nays," and ascertains and certifies according to the poll book the number of votes given for or against the by-law in the municipality. The certificate must also be signed by the poll clerk.

**683.** The poll books and the certificate are deposited in the office of the council, which passed the by-law, by the presiding officer at the meeting within forty-eight hours after the close of the poll.

**684.** If the by-law has been passed by the county council, the warden, so soon as the poll books and certificate have been deposited at the office of the council, ascertains by each certificate the total number of votes given for or against the by-law.

**685.** In the case of an equal division of votes, the head of the council which has passed the by-law gives his vote.

**686.** The approval or disapproval of the municipal electors, as the case may be, must be established without delay by a certificate, signed by the head and the secretary-treasurer of the council which passed the by-law. Such certificate is submitted to the council at one of its next sessions.—If the council desires to examine the poll books, they must be laid before it at once.

## APPROVAL

**687.** by-law must be approved in council, by the treasurer, law, or after the electors if forwards and special secretaries, calculations, and government of the law, and

**688.** The council which and information of the unions.

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**690.** A fact, must be to the lieutenant in the first instance, and after council, if it has been

(1) Held: That to shares in a railway. Lieutenant-Governor of the taxes: *Laume vs. Corporation*

## SECTION II.

## APPROVAL OF THE LIEUTENANT-GOVERNOR IN COUNCIL.

**687.** Whenever it is prescribed that a municipal by-law must be approved of by the lieutenant-governor in council, before having force and effect, the secretary-treasurer of the council, after the passing of such by-law, or after it has been approved of by the municipal electors if it has been necessary to submit it to them, forwards an authentic copy of the by-law to the provincial secretary, together with a certified copy of all documents calculated to convey information to the lieutenant-governor upon the fulfilment of the provisions of the law, and the utility of the passing of such by-law.

**688.** The lieutenant-governor may exact from the council which has passed such by-law all the documents and information he deems necessary for assuring himself of the utility of the by-law or of any of its provisions.

**689.** The lieutenant-governor in council must not approve of a municipal by-law until after proof has been made to its satisfaction that the formalities required for the passing of such by-law have been observed. (1)

**690.** A by-law which, before having force and effect, must be submitted to the municipal electors, and to the lieutenant-governor in council for approval, must, in the first instance be submitted to the municipal electors, and afterwards to the lieutenant-governor in council, if it has been approved by them.

(1) *Held:* That the nullity of a municipal by-law to subscribe to shares in a railway company, which has been approved by the Lieutenant-Governor, cannot be alleged in an action for the recovery of the taxes imposed by such by-law.—*Corporation of St. Guillaume vs. Corporation of County of Drummond*, 7 R. L. 721.

## SECTION III.

## PROMULGATION OF MUNICIPAL BY-LAWS.

**691.** Municipal by-laws are promulgated on the day of their publication in virtue of the following article.

**692.** Municipal by-laws are published within fifteen days after the passing thereof, or of their final approval in cases where they may have been submitted for approval to the municipal electors or to the lieutenant-governor in council, by a public notice mentioning the object of the by-law, and the date of the passing thereof. — Such notice is given under the hand of the secretary-treasurer, and is published in the ordinary manner. — If the by-law is approved of by the municipal electors, or by the lieutenant-governor in council, or by any other council when such approval is required, the notice of publication must also mention that each of these formalities has been observed, and the dates upon which they were complied with.

**693.** Every municipal by-law must be read at any place determined on by the local council, under article 234, if such place has been fixed, on two Sundays within thirty days following the day on which it was published in virtue of the preceding article, after divine service, if divine service has been performed. — If it is a by-law of a county council, and if the notice of publication has been addressed, under article 235, to the secretary-treasurer of any local municipality, such officer must provide for the by-law being read in the manner required by the preceding provision. — The neglect to read such by-law, in conformity with this article, does not prevent such by-law from coming into force, but it renders the person whose duty it is to read the same liable to a penalty of not less than ten nor more than twenty dollars. (1)

**694.** Any council may, moreover, publish its by-laws in one or more newspapers.

(1) *Held*: That the neglect to promulgate a by-law does not prevent a party interested from taking proceedings to set it aside. — *La Corp. du Comté d'Arthabaska vs. Patoiné* 9 L. N. 82.

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**695.** Any by-law, passed by a council of a rural municipality, and amended or confirmed in appeal by the county council, must be published by the secretary-treasurer of the local council, within the fifteen days after the transmission, in virtue of article 934, of the decision of the county council, or of the certificate of the secretary-treasurer if that council gave no decision, even though such by-law may have been published before the appeal to the county council.

**696.** A municipal by-law may always be published after the delay prescribed by articles 692 and 695, but only by order of the council.

**697.** The promulgation of every municipal by-law is considered to have been sufficiently made, until the contrary is alleged, at the expiration of the delay prescribed for the publication of such by-law.

## CHAPTER VII.

### ANNULMENT OF MUNICIPAL BY-LAWS.

**698.** Any municipal elector in his own name, may by a petition presented to the magistrate's court or to the circuit court of the county or district, demand and obtain, on the ground of illegality, the annulment of any municipal by-law, with costs against the corporation. (1).

(1) *Jugé*; Qu'il y a ouverture à la voie de cassation, devant la Cour de Circuit, d'une décision ou résolution d'un conseil de comté, même siégeant en appel d'un règlement du conseil local, si le conseil de comté commet une illégalité; 2° Que c'est le cas d'appliquer les articles 100 et 698 qui ont rapport à tous les conseils municipaux, locaux ou de comté. *Corporation de St-Maurice vs. Dufresne*, 10 Q. L. R., 227.

*Jugé*: 1° Qu'il n'y a que celui qui est électeur municipal qui a droit de demander par la voie de la requête mentionnée en l'art. 698 la cassation d'un règlement municipal pour cause d'illégalités; 2° Que le requérant doit alléguer dans sa requête qu'il est tel électeur. *Thérien vs. La Corporation de St-Henri de Mascouche*. 9 L. N., 20.

*Jugé*: Qu'on ne pouvait demander la nullité d'un règlement qui n'avait pas été promulgué et qu'une requête demandant telle

**699.** The annulment of part only of a by-law may be demanded and obtained in the same way.

**700.** The petition must set forth in a clear and precise manner, the reasons alleged in support of the d

nullité sera renvoyée avec dépens. *Morin vs. La Corporation d Canton de Garthby.* 5 L. N., 272.

*Jugé:* Que la juridiction de la C. S. n'est pas affectée par les dispositions de l'art. 100 C. M., dans les actions pour annuler un procès-verbal, ou une résolution d'un conseil municipal, et que la négligence apportée à la promulgation d'un règlement ne prive pas une partie intéressée de son droit de prendre les procédures nécessaires pour le faire rejeter. *La Corporation d'Arthabaska et Patoine.* 9 L. N. 82.

*Jugé:* Que lorsqu'une personne intente une action pour faire annuler un rôle de cotisation, pour payer les frais d'une amélioration déclarée illégale, et qu'après l'institution de l'action, elle paye le montant pour lequel elle a été taxée, afin d'éviter une exécution qui a émané contre ses effets, tel paiement ne sera pas considéré comme un abandon de son droit de faire déclarer le dit rôle nul en autant qu'elle est concernée. *Bisson, et le Maire et al. de Montréal.* 23 L. C. J., 308.

*Jugé:* Qu'un contribuable qui allègue qu'il souffre une injustice réelle par l'acte illégal d'une corporation municipale, peut instituer une action en son propre nom sans l'intervention du procureur général pour empêcher cet acte illégal, mais qu'un règlement qui doit être ratifié par les électeurs avant de devenir en force, ne peut être l'objet d'une telle action avant cette ratification, vu qu'il n'est encore qu'un projet. *Molson, et Le Maire et al. de Montréal.* 23 L. C. J., 169.

*Jugé:* Que les frais sur une demande par une requête en cassation de règlement municipal doivent être taxés comme dans une cause de première classe non appelable de la Cour de Circuit. *Bourbonnais, et La Corporation du comté de Soulanges.* 17 L. C. J., 69.

*Jugé:* Qu'il n'y a pas d'appel d'un jugement rendu par la cour supérieure sur des procédures concernant les affaires municipales. *Danjou, et Marquis.* 3 R. J. Q., 335.

*Jugé:* Qu'on ne peut attaquer la validité d'un règlement municipal au moyen d'une procédure incidente, mais qu'elle doit l'être par la procédure directe indiquée par le code. *Parent vs. La Corporation de la paroisse de St-Sauveur.* 2 Q. L. R., 258.

*Jugé:* Que lorsqu'il est passé outre à un bref de prohibition adressé à la "Corporation du village de l'Assomption, dans le comté de l'Assomption, dans le district de Joliette," "lui défendant de passer outre et de procéder ultérieurement sur ou en vertu d'un règlement du 31 août dernier, 1869, et adopté le dit jour par le conseil municipal du village de l'Assomption, de procéder ou faire procéder ultérieurement à l'exécution du dit règlement sous quelque forme ou prétexte que ce puisse être," une règle pour mépris de cour ne peut être maintenue contre une personne qui aurait travaillé ou fait travailler à la réquisition de la corporation au canal dont la confection

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était ordonnée par tel règlement. Archambault et al. *vs.* La Corporation du village de l'Assomption; et Archambault et al., mis en cause, 2 R. L., p. 105.

Requête pour faire casser un règlement municipal basé sur l'article 698 C. M. Règlement adopté à une séance du conseil sur simple résolution d'après certaines instructions données verbalement au secrétaire chargé de le préparer et considéré adopté à cette même séance. En supposant que ce mode de procéder serait irrégulier, il faut établir que le règlement en question consacre une injustice. Autrement la contestation se réduit à un grief de forme couvert par l'article 16 du Code Municipal. Legault *vs.* Corporation du comté de Jacques-Cartier. 31 L. C. J., 323.

Jugé: 1° Les corps municipaux ne peuvent pas violer les contrats auxquels ils sont parties par les règlements qu'ils adoptent et un règlement imposant une taxe qui a un tel effet est nul.

2° Le maire de Québec forme une partie intégrante du conseil de ville de cette cité. Il ne peut être remplacé par un président que dans les cas d'absence momentanée ou de quelques jours. Lorsqu'il s'absente de la ville pour un temps plus long, v. g. : pour assister comme député à la Chambre des Communes du Canada à Ottawa, pendant la session du parlement fédéral, il doit être remplacé par un pro-maire, élu suivant la loi. Un règlement adopté pendant une pareille absence du maire, et sans qu'il ait été remplacé par un pro-maire comme susdit est nul. Compagnie du Chemin de fer des rues de Québec *vs.* La Cité de Québec. 16 Q. L. R., 11.

Jugé: Que, lorsque des pièces invoquées au soutien d'une demande n'ont pas été produites, en même temps que cette demande la partie demanderesse peut les produire après le jour du rapport, sans la permission de la Cour, en donnant avis à la partie adverse.

Qu'aucune irrégularité ne peut donner lieu à l'annulation d'un procès-verbal s'il n'est pas démontré que cette irrégularité a été la cause d'une injustice réelle.

Que, sur une requête pour *mandamus* pour faire ordonner à la corporation municipale d'ouvrir un chemin dont la construction est décrétée par procès-verbal, les irrégularités des procédés sur le procès-verbal, ne peuvent être mises en question.

Que, si un jugement de la Cour de Circuit annule d'abord un procès-verbal, sur un appel non signifié aux intéressés, et si ce jugement est ensuite cassé et annulé sur une tierce opposition signifiée à toutes les corporations intéressées, ces corporations seront, par ce fait seul, suffisamment mises en demeure d'exécuter ce procès-verbal.

Que si un procès-verbal ordonne l'ouverture dans un certain délai d'un chemin comprenant un bout de chemin déjà ouvert, au public, et si, avant l'ouverture de ce chemin, un autre procès-verbal ordonne la fermeture du bout de chemin déjà ouvert, sans faire aucune mention du premier procès-verbal ni du chemin à construire, le premier

secretary-treasurer of the council, or any other person in whose custody such by-law may be, to produce such copy; and such person, in the same manner as the secretary-treasurer, is for this purpose deemed to be an officer of the court which gives such order.

procès-verbal ne sera nullement affecté, parce que l'amendement d'un procès-verbal doit être formel, et ne se présume pas.

Qu'un procès-verbal peut être nul pour partie et valide pour le reste et qu'une disposition illégale, concernant l'entretien d'un chemin après sa construction, n'invalide pas les dispositions légales de ce procès-verbal, qui concernent l'ouverture du chemin. Gédéon Girard et al. vs. la Corporation du Comté d'Arthabaska et la Corporation de la paroisse de St-Fortunat de Wolfestown et la Corporation du Canton de Chester-Est. 16 R. L. 580, 581, etc.

*Held:* That an action to annul a special assessment Roll should be directed against the Resolution authorizing the assessment.

That under sect. 12 of the act. 42 & 43 Vict., Que., C. 53, such action must be instituted within three months from the coming into force of the resolution complained of. Rivet vs. La Cité de Montréal. 32 L. C. J., 156.

*Jugé:* Que l'illégalité d'un règlement passé par un conseil municipal dans les limites de ses attributions, et d'un rôle de perception, ne peut être plaquée, comme défense à une action pour le recouvrement d'une taxe imposée par ce rôle de perception et ce règlement, intentée après les trois mois de la date du règlement et du rôle de perception, lorsque ce règlement et ce rôle de perception n'ont pas été attaqués dans les trois mois de leur date;

Que des taxes spéciales peuvent être entrées dans un rôle général annuel de perception fait par le conseil municipal, et qu'il n'est pas nécessaire de faire un rôle spécial, que lorsque des taxes spéciales sont imposées, après la confection du rôle général de perception;

Qu'une corporation de village qui a ordonné par une résolution et non par un règlement la reconstruction des trottoirs, dans la municipalité, et qui a ensuite fait un règlement pour le prélèvement des taxes annuelles en y comprenant le coût de ces trottoirs, et un rôle de perception basé sur ce règlement, pourra recouvrer le montant de ces taxes, si cette résolution, ce règlement, et ce rôle de perception n'ont pas été attaqués, dans le délai de trois mois de leur date. Corporation du village de Ste-Geneviève vs. Chaurest. 17 R. L. 341.

*Held:* 1° That, under the provisions of articles 100 et 698 of the Municipal Code, it was not competent for a corporation to petition to set aside a valuation roll for alleged illegality; that a corporation who claimed over-valuation of their property, and had obtained a partial reduction, cannot petition for the annulment of the roll, but should have proceeded by appeal under art. 1061 of M. C.

2° That even supposing the petitioner had a right to ask for the annulment of the roll, the irregularities complained of were not sufficient to justify the annulment of the roll. The New Rockland Slate Co. vs. The Corporation of the Townships of Melbourne and Brompton Gore. 12 L. N. 50.

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**701.** Such petition must be served at the office of the council which passed the by-law, eight days, at least, before it is presented to the court.

**702.** The rules prescribed by articles 352, 353, 354, 355, 356, 358, and 360 apply also *mutatis mutandis* to the petition presented in virtue of the provisions of this chapter.

**703.** The court may, by its judgment, annul such by-law, in whole or in part, order the service of such judgment at the office of the council interested, and cause the same to be published either in the manner prescribed for the publication of orders of the council or in one or more newspapers.

**704.** Any by-law or part of a by-law so annulled, ceased to be in force from the date of the judgment.

**705.** Nevertheless, every tax, contribution penalty, or obligation imposed by any by-law subject to be annulled, and payable before such by-law was set aside, is exigible, notwithstanding the setting aside of such by-law, if the petition on which such by-law was set aside was not presented to the court within three months from the time such by-law came into force.—Every loan contracted and every debentures issued in virtue of a by-law liable to be set aside, is valid; and the taxes imposed to pay such loan or such debentures, are due and exigible, if the petition praying that such by law be set aside was presented to the court after the three months which follow the coming into force of such by-law. (2)

(1) 1° On ne peut attaquer la validité d'un règlement municipal au moyen d'une procédure incidente.

2° Un règlement municipal doit être attaqué par la procédure directe indiquée par le Code Municipal.

3° L'erreur dans la désignation du nom d'une corporation municipale, ne vicie pas les procédures prises par cette corporation. *Parent vs. La Corporation de la paroisse de St-Sauveur*, 2 Q. L. R., 258.

*Jugé:* Qu'on ne peut demander la cassation d'un règlement qui est en lui-même de la compétence d'un conseil municipal, mais qui est affecté d'illégalité par le manque de quelques formalités, par une procédure incidente, mais qu'on doit la demander par une procédure directe, au moyen de la requête en cassation indiquée, mais dans le



**710.** The following property is taxable in every local municipality in which it is possessed :—1. The yearly salary or income derived from the office of every judge or other civil servant appointed by the federal or provincial government ; — 2. The annual professional income of every advocate, notary, pilot, physician, surgeon, dentist, civil engineer, or provincial land surveyor ;—3. The annual salary of all other persons engaged in another's service, and whose salary exceeds four hundred dollars per annum.

**711.** If a rate payer, who possesses property declared to be taxable under the preceding article, has his domicile in one local municipality, and his place of business, from which is derived such taxable property, in another, such property is only taxable in the local municipality in which is situated his place of business.

**712.** The following property is not taxable :—1. Property belonging to Her Majesty, or held in trust for her use ; property owned or occupied by the corporation of the municipality in which it is situated, and the buildings in which are held the circuit courts and registry offices ;—2. Property owned or occupied by the federal or provincial government ;—3. Property belonging to *Fabriques*, or to religious, charitable, or educational institutions or corporations, or occupied by such *Fabriques*, institutions or corporations for the ends for which they were established, and not possessed solely by them to derive a revenue therefrom ;—4. Burial-grounds, bishops' palaces, parsonage houses, and their dependencies ;—5. All property belonging to iron and wooden railway companies to which a grant from the provincial government has or may be made, for the period of twenty years from the date of the first payment on account of the grant. — 6. All educational institutions receiving no grant from the corporation or municipality in which they are situated, and the land on which they are erected and its dependencies. (*R. S. Q.*, art. 1146) — 7. All property belonging to or used especially for exhi-

bition purposes by Agricultural and Horticultural Societies. 52 V., ch. 25, s. 4. (1)

(1) The farm situated in the municipality of the Appellants and owned and used by the Ladies Respondents for the benefit of their school, situated in another municipality, is to be considered as occupied for the end for which they were established, and not solely to derive a revenue therefrom, (*Dorion & Cross, diss.*)—Corporation of Verdun *vs* The Nuns of the Congregation, 1 Q. L. R., 163.

*Held*: That the religious corporations, established for the end of instruction, are exempt from all municipal and scholar taxes on the properties occupied by them for the ends for which they have been established and which they don't occupy solely to derive a revenue therefrom. School Commission. of St-Roch *vs* Seminary of Quebec, 10 Q. L. R., 335.

*Jugé*: Que la ferme à Maizerets, destinée depuis au-delà d'un siècle à être un lieu de récréation pour les prêtres, ecclésiastiques et élèves du séminaire de Québec, qui y vont passer les congrès, mais sur laquelle on coupe du foin et où l'on élève quelques animaux et dont les produits sont, pour la plupart, absorbés par le Séminaire de Québec, est exempte de taxes scolaires. Les Commissaires d'écoles de St-Roch Nord *vs* Le séminaire de Québec. Q. L. R., 335 et 18 L. N., 83.

*Jugé*: Qu'une maison sise et située sur le même lopin de terre que le Collège Morrin auquel elle appartient, et occupée comme logement privé par deux des professeurs du dit collège, est exempte des taxes municipales, en vertu de la section 25, du Statut du Canada, 29 Victoria, ch. 57, comme étant employée pour les fins d'éducation, bien qu'une partie du salaire des dits professeurs soit retenue par le dit collège comme indemnité pour l'occupation de la dite maison. Le trésorier de la Cité de Québec *vs* The Morrin College. 5 L. N. 144.

*Jugé*: Que les biens appartenant au gouvernement, qui sont vendus à un particulier, au milieu de l'année civile, après la confection du rôle de cotisation, ne sont pas sujets à l'imposition de taxes pour le reste de l'année. Hogan, et La cité de Montréal et al. 29 L. C. J. 29.

*Jugé*: Que des taxes municipales imposées sur un immeuble situé dans la ville de Sorel, appartenant à sa Majesté et possédé, en fidéicommis pour elle, par le principal Secrétaire d'Etat de Sa Majesté pour le département de la guerre, ne peuvent être recouvrées de l'occupant de cet immeuble quand même cet occupant serait mentionné et porté au rôle d'évaluation comme propriétaire, et qu'il ne se serait pas plaint du rôle de cotisation. Parsons *vs* le Maire et le Conseil de la ville de Sorel. 15, R. L., 417.

*Jugé*: Que les églises et les résidences du ministre les desservant, dans la Cité de Montréal, sont exemptes des taxes spéciales imposées pour la construction des égouts dans cette Cité et que les propriétaires de ces terrains peuvent attaquer le rôle de cotisation, même après les trois mois de sa confection. Cité de Montréal et The Rector and Church Wardens of Christ Church Cathedral, in the Diocese of Montreal. 17 R. L., 433.

*Held*: That the following clause (38 V ch. 73 s. 3) amending the

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**713.** The occupants of property mentioned in paragraphs 3, 4 and 5 of the preceding article, are nevertheless, liable for works of repair upon the front roads situated opposite such property in the local municipalities, wherein such roads are not at the costs and charges of the corporation. — They are also liable for work on water-courses, clearances, boundary ditches and fences, belonging to such lands.

**714.** Crown lands occupied, whether under or without location tickets, are deemed to be taxable property;

charter of the City of Montreal, viz: Churches, parsonages and bishop's palaces are exempt from all taxes. The institutions occupied for charitable objects are exempt from municipal ordinary and annual taxes; exempt from all taxes and apply to a special assessment for local improvements. City of Montreal *vs.* Rector and Church Wardens of Christ Church Cathedral in the Diocese of Montreal. 33 L. C. J., 89.

*Held:* (Reversing the judgment of the Court of Queen's Bench) Sir H. J. Ritchie, C. J., dissenting). That the exemption from taxation in favor of educational establishments, contained in 41 Vic., Cap. 6, Sect. 26, Que., includes exemption from special assessments for local improvements, such as drains, sidewalks, public squares, and works of like nature. The Seminary of St. Sulpice & The City of Montreal. 33 L. C. J., 197.

*Held:* That the Statute 38 Vict. (Q.), c. 73, s. 3, exempting churches, parsonages and bishops' palaces from the payment of "all taxes" includes special assessments for local improvements. The City of Montreal *vs.* The Rector and Churchwardens of Christ Church Cathedral. 4 M. L. R., 13.

*Held:* That where an annual assessment extending over a term of years for the purpose of meeting debentures, &c., is validly imposed by a municipality on all the rateable property within its limits, such property is not purged from the tax, although it subsequently becomes non-rateable through it being acquired by a charitable or educational institution.

That the making of a valuation Roll subsequent to the By-Law imposing such assessment, does not constitute the levying of a new tax, but merely determines the annual amount of the tax to be levied under such By-Law. La Communauté des Sœurs des Saints Noms de Jésus et Marie and The Corporation of the village of Waterloo. 31 L. C. J. 279.

*Held:* That assessments voluntarily paid, in accordance with a duly homologated assessment roll, cannot be recovered from the corporation without alleging specially that the payment was made through error of law or of fact.

The sending of a tax bill, accompanied by notice that if the same be not paid within fifteen days execution will issue, does not constitute compulsion. Haight *vs.* The City of Montreal. 3 M. L. R., 65.

but the municipal taxes for which they are liable, cannot, in any case, be recovered from the Crown.

**715.** The provincial registrar shall transmit, during the course of the month of January in each year, a list of the public lands, for which letters patent have been issued during the preceding year, to the registrars of the registration divisions and to the secretary-treasurers of the county municipalities in which such letters-patent have been issued. (*R. S. Q.*, art. 6147).

## CHAPTER II.

### MAKING OF THE VALUATION ROLL.

**716.** In the months of June and July, triennially, the valuator of every local municipality must draw up, either personally or by any other person employed by them, a valuation roll, based upon the real value of the property, in which are set forth with care and exactitude all the particulars required by the provisions of this title. — Nevertheless in the counties of Gaspé and Bonaventure, the valuation roll must be drawn up in the months of February and March. (*Id.*, art. 6148) (1)

**717.** In every local municipality where there is no valuation roll, or in which the valuation roll in force has been annulled, the valuator is bound to make one, upon an order of the council within the delay determined by the latter, even if it should not be the year during which valuation rolls are made in virtue of the preceding article. — The valuation roll so made is subject to the examination of the county council, and remain in force until the month of July of the year in which valuation rolls are made in virtue of the preceding article, and subsequently until the coming into force of the new valuation roll.

(1) *Held*: That the right which a municipal council has of amending a valuation roll, does not imply that of making a new one, and a new one can be made every three years: — that the duty imposed upon municipal corporation of having a valuation roll made every three years does not give them power of making one before the expiration of this delay. — *Morgan & al vs. Côté & al*, 3, L. N. 224.

**718.** The party in the distinct consecutive surnames of known; — 3. By whom it the occupant indication of the manner but for any tre, it is necessary. — 7. The real value of the valuation roll not being in force; — 9. The total value of the property including, if it be the value of the property. — 12. The name of the person, by whom the valuation is made. — 13. All other persons liable by article 14. The real value of the property in the municipality is determined by the

**718.** The valuation roll must include all taxable property in the municipality, and must specify in so many distinct columns and in the following order:—1. The consecutive numbers on the roll;—2. The names and surnames of the owners of taxable property if they are known;—3. The quality and age of the owners;—4. By whom it is occupied;—5. The qualities and age of the occupant, when they are not the owners;—6. The indication or designation of the taxable real estate, in the manner prescribed by a resolution of the council; but for any lot or part of any lot entered in the cadastre, it is necessary to use the numbers of the cadastre;—7. The real value of such real estate, giving separately the value of any part of a lot occupied by any person not being the owner;—8. Their annual value or rent;—9. The nature of the property declared taxable by articles 710;—10. The value of such property;—11. The total value of the taxable property of each person, including, if necessary, the real value of the real estate and the value as mentioned in the foregoing paragraph;—12. The names, calling and qualification of the following person, being males of the full age of twenty one years and subjects of Her Majesty by birth or naturalization.

- a. Teachers, teaching in the municipality under the control of school commissioners or trustees.
- b. Retired farmers or proprietors (annuitants) receiving a rent of at least one hundred dollars.
- c. Fishermen, owners of boats, nets, fishing gear and tackle or shares in a registered ship and the actual value thereof:
- d. Farmers' sons, working on their father's or mother's farm:
- e. Sons of owners of real property residing with their father or mother.

13. All other information required by the council;—14. The real value of the property declared not taxable by article 712;—15. The number persons resident in the municipality;—16. All other details prescribed by the provincial secretary;—17. The valua-

tion roll shall be summed up in the columns or parts which may be summed up, showing the total of each column. (*R. S. Q.*, art. 6149; 52 V., c. 4, s. 7; 53 V., c. 63, s. 7). (1)

**719.** The actual value of the taxable real estate includes the value of all buildings, factories, or machine shops erected thereon, and of any improvements which have been made thereto, save in so far as is set forth in the two following articles.

**720.** Every iron railway company or wooden railway company, other than those mentioned in the fifth paragraph of article 712, possessing real estate in a local municipality, must transmit to the office of the council of such municipality, in the month of May in each year, a return showing the real value of their real estate in the municipality other than the road, and also the actual value of the land occupied by the road estimated according to the average value of agricultural land in the locality.—Such return must be communicated to the valuator by the secretary-treasurer in due time. (*R. S. Q.*, art. 6150)

**721.** The valuator in making the valuation of the taxable property in the municipality, must value the real estate of such company, according to the value specified in the return given by the company. (2)

(1) *Held*:—1o That the valuation roll is an authentic document which makes complete proof of real and annual value of the taxable properties of a municipality for all electoral ends.—2o That it is not allowed, when revising the list, to admit of another value than the one mentioned on said roll.—3o That the valuation roll does not prove the quality of proprietor, occupant or tenant, when the list was made.—4o That the council may when revising the list, substitute to the names of those who were not before that time proprietors, occupants or tenants, the names of the persons which have such qualities when the list is made. *Gratton vs. la Corporation du village Ste-Scholastique*. 7 R. L., 356.

(2) *Jugé*: Que, sous les dispositions des articles 323, 326 et 327 de l'acte des clauses générales des Corporations de ville (Statuts de Québec, de 1876, 40 Vict., ch. 29), une corporation de ville n'a droit de taxer que le terrain sur lequel un chemin de fer est construit et non le chemin lui-même, ni un pont situé dans les limites de la municipalité. *The Corporation of The town of St. John's et al. vs. The Central Vermont Railway Co.* 18 R. L., 123.

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(1) *Jugé*: Qu'un évaluateurs dont de l'un des évalua tion du maire es ble, et qu'il est ég ai par les cotiseurs clerc. *Rolfe et La*

**722.** If such return has not been transmitted in the time prescribed, the valuation of all the immoveable property belonging to the company is made in the same manner as that of any other rate-payer.

**723.** If the owner of land is unknown, the valuator insert the word "unknown" in the column of names of owners, opposite the description of such land.

**724.** The lieutenant-governor may by instructions given to any local council, require the insertion in the valuation roll, of all details and information he may desire, respecting the census and statistics of the inhabitants of the municipality, and of their moveable and immoveable property; and the valuator is bound to obtain such details and information by every means in their power, and to insert them with accuracy in the valuation roll prepared by them.

**725.** The valuation roll must be signed by at least two of the valutors who drew it up or caused it to be drawn up, and by the secretary-treasurer or any other person whom they employed as clerk and it must be attested by all such persons on oath, taken before a justice of the peace, in the following form:—*We (names of valutors and of the clerk or secretary-treasurer) swear and solemnly affirm, each for himself, that to the best of our knowledge and belief, the foregoing valuation roll is correct, and based upon the real and annual value of the property, and that nothing has been unduly or fraudulently omitted or inserted in it: So help us God. (R. S. Q., art. 6151.) (1)*

**726.** The valutors must deposit the valuation roll made by them, within the delay fixed for making such roll, in the office in the council: such deposit cannot be made after the prescribed delay has expired.

**727.** If, at the expiration of the time prescribed,

(1) *Jugé: Qu'un rôle d'évaluation est nul s'il est fait par trois évaluateurs dont l'un a été nommé par le maire sur le refus d'agir de l'un des évaluateurs nommés par le conseil, même si cette nomination du maire est ratifiée par le conseil, lors de l'homologation du rôle, et qu'il est également nul s'il n'est signé et attesté sous serment ni par les cotiseurs, ni par le secrétaire-trésorier qui a agi comme leur clerc. Rolfe et La Corporation du Canton de Stoke. 24 L. C. J., 213.*

the valuator have not made and deposited the valuation roll in the office of the council, the mayor or the secretary-treasurer must, without delay, inform the lieutenant-governor of the fact, by letter addressed to the provincial secretary.—Any rate-payer may, in the same manner, give such information to the lieutenant-governor.

**728.** The lieutenant-governor, as soon as such negligence or refusal of the valuator has been made known to him, appoints three valuator whom he orders to make a valuation roll, and deposit the same at the office of the council within a delay fixed by him.—If such delay be not fixed, these valuator must make and deposit the valuation roll within the thirty days following the notice of their appointment.

**729.** The valuator appointed by the lieutenant-governor, in virtue of the preceding article, only act in relation to the valuation roll which the valuator in office omitted to make.—Such valuator are municipal officers; and in the exercise of their duties they are invested with the same rights and powers, subject to the same obligations, and liable to the same penalties for refusal, negligence, default or omission, as the valuator appointed by the council.

**730.** Each of the valuator appointed in virtue of article 728 is entitled to an allowance of two dollars for each day he is employed, in valuing taxable property, and in drawing up the valuation roll. The amount of such fees is determined and taxed by certificate of the of the mayor, and is recoverable in the manner prescribed for penalties imposed by the provisions of this code, by the valuator entitled thereto, from the valuator in default who are jointly and severally liable for the amount of the same with costs.

**731.** The lieutenant-governor may, if the valuator appointed by him, in virtue of article 728, refuse or neglect to make and deposit the valuation roll within the prescribed delay, replace them by new valuator, and so on, until the valuation roll be made and deposited in conformity with the provision of this title.

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**734.** Th next after the mine and an valuator, ev been made in tion of any t omitted, and b with its value required by a property error sum as it thi property which above its true the names of p of the lands me whatever the v S. Q. art. 6152)

**735.** Every by the valuation demand that th s to cause that ucing an appl eal council up mination of the complaint verba tion.

**736.** Before ination and am y public notice,



**732.** So soon as the valuator have deposited the valuation roll in the office of the council, the secretary-treasurer must give notice public thereof.

**733.** The three valuator must act together in making the valuation roll.

### CHAPTER III.

#### EXAMINATION OF THE VALUATION ROLL.

**734.** The local council must, within thirty days next after the notice given in virtue of article 732, examine and amend the valuation roll deposited by the valuator, even though no petition or complaint has been made in reference thereto, by making the valuation of any taxable property which may have been omitted, and by inserting therein such omitted property with its value and all other particulars relating thereto required by article 718; by striking therefrom any property erroneously inserted therein; by fixing at such sum as it thinks reasonable, any valuation of taxable property which it judges to have been made under or above its true, real or annual value; or by correcting the names of persons entered therein or the description of the lands mentioned therein; or by inserting therein whatever the valuator may have omitted to insert. (*R. S. Q. art. 6152*).

**735.** Every person who considers himself wronged by the valuation roll, prepared by the valuator, may demand that the same be amended in such a manner as to cause that justice be done to him, either by producing an application in writing at the office of the local council upon or before the days fixed for the examination of the roll by the council, or by stating his complaint verbally before the council at such examination.

**736.** Before the local council proceeds to the examination and amendment of the valuation roll, it must by public notice, inform the inhabitants of the municipi-

pality of the day and hour of the session at which the same is to be commenced.

**737.** The council, at the time of the examination of the valuation roll, must take notice of all complaints lodged at its office or made verbally before it, and hear all parties interested, and the valuers present, and their witnesses.

**738.** Any amendment made to the valuation roll must be entered upon such roll, or on a paper annexed thereto, with the initials of the secretary-treasurer.—A declaration testifying to the accuracy of the amendments and determining the number thereof, together with the time at which they were made, must be entered on the roll or annexed thereto, under the signature of the president and the secretary-treasurer.

**739.** The mayor and the secretary-treasurer are bound to forward to the office of the county council, and to the provincial secretary, within ten days after the expiration of the thirty days mentioned in article 734, a certified copy of the valuation roll as it then stands (R. S. Q., art. 6153.)

**740.** Every county council must, during the month of September, in the year wherein the new valuation rolls are made in virtue of article 716, or at a subsequent date fixed by the county council or by the warden of the county, special notice to that effect having been previously given to all the members composing such council, examine all the valuation rolls made in the local municipalities of the county, which have been forwarded to its office; ascertain whether the valuation made in each of them bears a just proportion to the valuation made in the others; and increase or decrease, if necessary, the amount of the valuation entered on the roll of each of such municipalities, by any rate per cent which it deems requisite to establish a just proportion between all the valuation rolls made in the county municipality. — Nevertheless, the county council cannot in any way reduce the total amount of all the valuation rolls made in the county municipality, and forward

to its office for county

**741.** Valuation made by the county council, communicated to the portion the amount set of the valuations of the municipalities of the county, down in the valuation rolls in the

**742.** Every valuation roll, if amended, if not as described, notwithstanding the county council proposes from the provisions in article 734, the valuation of the roll could take effect only if the county council approves of it. (R. S. Q., art. 6153.)

**743.** It is the duty of the new valuation roll, provision of the law as a basis for the valuation of the labor or material, laws, *procès-verbaux*, as for any real estate, local council debts, except the provisions of the law.

(1) Held: The valuation roll is not a public document. No person can demand to see it. No person who is not a member of the council can see it, except in cases of the roll.

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to its office.—The valuation roll so amended serves only for county purposes. (*R. S. Q.*, art. 6154.)

**741.** When a copy of a new valuation roll is forwarded to the office of the county council, after the examination made in virtue of the preceding article, the county council must, within thirty days thereafter, take communication of the new roll, and, if necessary, proportion the amount of the valuation thereof to the amount set forth in the rolls of the other local municipalities of the county, in conformity with the rule laid down in the preceding article, without, however diminishing or increasing the several amounts of the valuation rolls in force in the other municipalities.

**742.** Every valuation roll comes into force as amended, if it has been amended within the time prescribed, notwithstanding any appeal pending before the county council, in virtue of article 927, for local purposes, from the expiration of the thirty days mentioned in article 734, and for county purposes, from the expiration of the delay during which the county council could take communication thereof.—The default of the county council to comply with the provision of articles 740 and 741 does not prevent the valuation rolls from coming into force for county purposes.

**743.** It remains in force until the coming into force of the new valuation roll, made in accordance with the provision of this title; and, during such time, it serves as a basis for all taxes, rates, apportionments in money, labor or materials, imposed in virtue of municipal by-laws, *procès-verbaux*, or acts of apportionment, as well as for any real property qualification, excepting that of local councillor, and for the payment of all municipal debts, except in special cases otherwise provided for by the provisions of this code. (*R. S. Q.*, art. 6155). (1)

(1) *Held*: That according to the electoral act, of 1875, 10. The valuation roll is conclusive as regards the value of the property; 2° No person can be on the list of voters if he is not on the roll; 3° That all person who appears qualified by the roll must be on the list, except in cases of personal disqualification which cannot appear on the roll.

The municipal code teaches the manner of attacking the valuation

## CHAPTER IV.

## GENERAL PROVISIONS.

**744.** Repealed. (*R. S. Q.*, art., 6156.)

**745.** The owners or occupants of taxable real estate, or of property declared taxable by article 710, are bound, in so far as it lies in their power, to give all the information applied for by the valuator, and to answer truly

roll; and in a collateral proceeding as the contestation of electoral lists, a new contestation cannot be raised on what has been finally decided touching such roll.

The secretary-treasurer has no right to correct the valuation roll. This roll is his only guide.

The date of the qualification of a voter is that of the list, and it is when the list is being made by the secretary-treasurer that the qualification must exist and appear in the roll.

A and B possess jointly and by equal shares a property valued by the roll to \$200 or \$300, neither one nor the other ought to be put on the list. In the same way, if A and B are both and equally tenants of a property for which they pay annually, according to the roll, \$20, or \$30., neither one nor the other can be placed on the list. In the first case, to allow both to vote, the property should be valued at \$400 at least.

In the second case, to give a vote to both, the rent must be of at least \$40. But if A and B possess together a property of \$300, but A for one third and B for two thirds, B will vote but not A. The same rule will apply to rents. *In re LES LISTES Électorales du comté de Kamouraska*. 3, Q. L. R., 308.

*Held*: 1° That the perception roll for school purposes is not affected by the nullity of the municipal valuation roll: 2° That the right which a municipal council has of amending a valuation roll implies that of changing and modifying it and even of making a new roll: 3° That the duty imposed upon municipal councils of having a valuation roll made every three years does not prevent making one before the expiration of this delay.—*Les Com. d'Ecole d'Hochelega vs. Hudon*. 10 R. L. 113.

*Held*: that the right which a municipal council has of amending a valuation roll, does not imply that of making a new one, and a new one can be made only every three years;—that the duty imposed upon municipal corporations of having a valuation roll made every three years, does not give them power of making one before the expiration of this delay.—*Morgan et al., vs. Côté et al.*, 3 L. N., 225. (*Sir A. A. Dorion and Tessier, JJ. Diss.*)

*Held*:—That the collection roll will be accepted as sufficient proof of the imposition and non-payment of taxes when no issue is raised by a specific plea as to the validity of the imposition of such taxes.—*Auclair vs. Poirier*, 28 L. O., Jurist, 231.

*Jugé*: 1° Que le rôle d'évaluation est un document authentique

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the questions put to them by the valuator relative to the value of their properties, and upon their refusal to give such information or to answer such questions truly, such owners or occupants incur a penalty of not less than five or more than eight dollars.

qui fait preuve complète de la valeur réelle et annuelle des biens imposables d'une municipalité pour les fins électorales.

2° Qu'il n'est pas permis, lors de la révision de la liste, d'admettre d'autre valeur que celle mentionnée au dit rôle.

3° Que le rôle d'évaluation ne fait pas preuve de la qualité de propriétaire occupant ou locataire, lors de la confection de la liste.

4° Que le conseil peut, lors de la révision de la liste remplacer les noms de ceux qui n'étaient pas avant cette époque propriétaires, occupants ou locataires, par ceux qui ont cette qualité lors de la confection.

5° Qu'en vertu de la clause 8 § 3 de l'acte électoral de Québec, la valeur annuelle d'un bien-fonds exigée par la loi suffit pour donner le cens électoral au propriétaire et à l'occupant, même quand la valeur réelle ne donne pas cette qualification; mais le loyer exigé par la loi ne donne pas le cens électoral au locataire à moins que la propriété dont il est locataire ait la valeur réelle exigée. *Gratton vs. La Corporation du village Ste-Scholastique 7., R. L. 856.*

*Jugé* : Que la qualification des électeurs parlementaires, exigée par les sections 8 et 9 de l'Acte Electoral de Québec, doit exister au moment de la confection de la liste, et que le rôle d'évaluation ne fait foi que de l'estimation des biens-fonds. *Filiatrault vs. La Corporation de la paroisse de St-Zotique. 14 R. L., 405.*

*Jugé* : Que le rôle de perception pour les fins scolaires n'est pas affecté par la nullité du rôle d'évaluation municipale que le droit pour un conseil d'amender un rôle d'évaluation, comporte celui de le changer, modifier et même de faire un nouveau rôle; que l'obligation imposée aux conseils municipaux de faire faire un rôle d'évaluation tous les trois ans n'empêche pas d'en faire un avant l'expiration de ce délai. Les Commissaires d'Ecole du village d'Hochelaga *vs. Hudon et al. 10 R. L. 113 et 9 R. L. 16.*

*Jugé* : Que les dispositions des sections 37 et 38 de la 38 Vict. ch. 7 (Acte électoral de Québec 1875) sont impératives; qu'elles imposent au secrétaire trésorier le devoir de transmettre au bureau d'enregistrement où se trouve située la municipalité, un double de la liste des électeurs dans les huit jours qui suivent l'entrée en vigueur de la dite liste sous peine d'une amende de \$200 ou d'un emprisonnement de six mois à défaut de paiement.

Que ce n'est pas une bonne défense à l'action d'alléguer que le conseil n'avait pas terminé l'examen de la liste ou avait continué cet examen après la date de sa mise en force, au désir de la loi; que le plaidoyer de bonne foi, offert sous ces circonstances, par le secrétaire-trésorier, alléguant qu'il n'est que l'employé du conseil ne peut prévaloir à l'encontre d'une disposition formelle de la loi.

Que le défendeur, étant poursuivi pour pénalité à raison d'une omission d'accomplir un devoir que la loi lui imposait et non à raison

**746.** After every change of owner or occupant of any land set forth in the valuation roll in force, the local council, on a written petition to that end, and after sufficient proof, shall erase the name of the former owner or occupant, and inscribe on such roll the name of

d'un acte fait par lui, il n'avait pas droit à l'avis d'action requis par l'article 22 du C. P. C. *Quere.* L'article 22 du C. P. C. exige l'avis dans le cas d'une action en dommage contre un officier public pour un acte fait par lui dans l'exercice de ses fonctions: cet avis est-il nécessaire lorsque l'action est prise en recouvrement d'une pénalité. *Jodoin et Archambault, 31 L. C. J., 7.*

*Held:* That the Court has jurisdiction to issue a writ of mandamus, ordering the Board of Revisors or other proper authorities, as the case may be, to place the name of an elector on the voters' list, where such name has been improperly omitted.

That under art. 1033 C. C. there is no appeal from the judgment granting the petition for a writ of mandamus in such cases, they being matters relating to a municipal corporation. *Fairbairn et al. vs. Déchêne et al. 31 L. C. J., 48.*

*Jugé:* Que dans une action pour recouvrer du secrétaire-trésorier d'une municipalité locale le montant de la pénalité imposée par la section 38 de l'acte électoral de Québec 1875, 38 V. ch. 7, il n'est pas nécessaire d'alléguer dans la déclaration que le poursuivant est majeur, et que l'action est intentée dans l'année de la commission de l'offense;

Que cet officier public (le secrétaire-trésorier) n'a pas droit, dans une action pour cette pénalité, à l'avis d'un mois, sous l'article 22, C. P. C.

Qu'un secrétaire-trésorier d'une municipalité, poursuivi pour le recouvrement de la pénalité édictée par la section 38 de l'acte électoral de Québec, 38 Vic. ch. 7, pour n'avoir pas transmis la liste électorale dans le délai mentionné dans cette section, n'a pas droit à l'avis d'un mois prescrit par l'article 22 C. P. C. qui n'accorde ce privilège qu'à l'officier public poursuivi à raison d'un fait par lui commis dans l'exercice de ses fonctions, et non lorsqu'il omet d'accomplir un devoir que la loi lui impose. *Normandin vs Berthiaume. 15 R. L., 1 et 3.*

*Jugé:* Qu'un fils marié, qui demeure dans une maison, avec son père, et qui contribue aux dépenses et au chauffage de la maison, comme le père, doit être considéré comme tenant feu et lieu, dans le sens du paragraphe 5 de la section 2, du chap. 7, des Statuts de Québec de 1875, 38 Vict., "L'acte électoral de Québec."

Que la preuve testimoniale est admise pour prouver qu'une personne dont le nom est sur la liste électorale, est qualifiée comme locataire, malgré que le bail de la propriété qu'elle a louée ait été fait par écrit au nom de son père, dans le but de donner plus de garantie au locateur.

Que le propriétaire, locataire ou occupant d'une portion distincte et divisée d'un immeuble dont le total est porté au rôle d'évaluation, mais dont cette partie distincte n'est pas évaluée séparément au rôle, n'a pas le droit d'être porté sur la liste des électeurs, la section 9

the new one, any lot apper 6157.) (1)

(1) *Jugé:* Que suffisante de l'ir point n'est pas léguaunt la validi rier, 28 L. C. J.,

*Jugé:* Que le droit, en dehors porter au rôle un évalué en entier a gement autorisé, mais qu'il doit al doit changer le n quoiqu'elle soit fa Théoret et Senéca

du dit statut ne s' ants par indivis.

Que celui qui, a est actuellement d tiens fonds estimé ant suffisant pour ur la liste, quoiqu e rôle d'évaluatio rriétés, les autres oute preuve légal oisse de St-Jacque

*Jugé:* 1° Que la Conseil municipal, e Québec doit ét

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*Held:* That the v pal charge, and bor tax.

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the new one, as well as the name of every tenant of any lot appearing in the valuation roll. (R. S. Q., art. 6157.) (1)

(1) *Jugé*: Que le rôle d'évaluation doit être tenu comme preuve suffisante de l'imposition et du non-paiement des taxes, quand ce point n'est pas spécialement soulevé par un plaidoyer spécial alléguant la validité de l'imposition de telles taxes. Auclair et Poirier, 28 L. C. J., 231.

*Jugé*: Que le conseil municipal d'une municipalité, n'a pas le droit, en dehors de la revision annuelle du rôle d'évaluation, de porter au rôle une évaluation distincte pour partie d'un immeuble évalué en entier au dit rôle, et qu'en ce cas il ne peut faire le changement autorisé, après chaque mutation, par l'article 746 C. M. ; mais qu'il doit alors attendre la révision annuelle. Que le conseil doit changer le nom du propriétaire, lorsque la mutation est sérieuse, quoiqu'elle soit faite dans le but de contrôler l'élection municipale. Théoret et Senécal et Demers. 17 R. L., 316.

Le dit statut ne s'appliquant qu'aux propriétaires, locataires ou occupants par indivis.

Que celui qui, au moment de la confection de la liste des électeurs, est actuellement de bonne foi, propriétaire, occupant ou locataire de biens fonds estimés, d'après le coé d'évaluation en force, à un montant suffisant pour le qualifier, comme électeur, a le droit d'être porté sur la liste, quoique son nom ne soit pas porté au rôle d'évaluation, le rôle d'évaluation ne faisant preuve que de l'évaluation des propriétés, les autres énonciations du rôle pouvant être contredites par toute preuve légale. Cupal et al. La Corporation de la paroisse de St-Jacques-le-Mineur. 16 R. L., 447 et 448.

*Jugé*: 1° Que la requête à l'effet d'appeler de la décision d'un Conseil municipal, en vertu des arts. 206 et suiv. de la loi électorale de Québec doit être présentée au juge, dans les quinze jours qui suivent cette décision.

2° Que copie de cette requête, et copie de l'ordonnance du juge doivent être, dans le même délai, signifiées au secrétaire-trésorier de la municipalité en question.

3° Que, par son ordonnance, le juge peut fixer un jour, en dehors de ces quinze jours, pour le rapport de la dite requête. Forest vs. la Corporation de la paroisse de L'Epiphanie. 19 R. L. 208.

*Held*: That the water tax levied by the City of Montreal is a municipal charge, and those who pay it are exempt from the statute labor tax.

That the functions of the Board of Revisors are ministerial and not judicial.

That the Board of Revisors does not become *functi officio* as soon as the time within which the law requires that the voters' lists shall be closed, has expired;

That the said Board has the power after the delay for closing such lists has expired, to place the names of voters, duly qualified, but which names have been improperly omitted, upon the said lists.

That the person whose name has been improperly omitted from

**746.a** The local council shall, in any year in which a new valuation roll is not made, revise and amend the valuation roll in force by complying with the formalities prescribed by articles 736, 737 and 738.—Such revision takes place during the months of September or October, in the judicial districts of Gaspé, Rimouski, Kamouraska, Montmagny, Chicoutimi and Saguenay,

such voters' lists has the right to proceed by means of a writ of mandamus, to compel such Revisors or other proper authorities, as the case may be, to place his name upon such lists. *Glaçon et al. vs. Fairbairn et al.* v. 30. L. C. J. 323.

*Jugé:* Qu'une corporation municipale n'a pas le droit de confesser jugement sur une requête à l'effet d'appeler d'une décision de conseil, par laquelle certains noms étaient retranchés de la liste des électeurs;

Que dans le cas où le Conseil prend sur lui de reviser et corriger la liste, sans qu'il y ait eu plainte, ce n'est pas un appel qu'on doit prendre, mais une procédure en cassation;

Qu'une requête en appel, doit être présentée dans les quinze jours après la révision des listes, et que, ce délai expiré, le juge en chambre est incompetent *ratione materiae*. *Leclerc vs. La Corporation de St-Jean-Port-Joli.* 14 R. L., 313.

*Jugé:* 1° Qu'un Conseil municipal siégeant pour la révision de la liste électorale, en vertu de l'acte électoral de Québec peut inscrire, sur le rôle d'évaluation alors en force, les noms des personnes que ce conseil considère comme dûment qualifiées à raison des biens estimés et portés au dit rôle d'évaluation;

2° Que celui qui, au moment de la confection de la liste électorale, est qualifié à être inscrit, à raison d'immeubles dûment estimés au rôle d'évaluation, a le droit, dans le délai légal de quinze jours qui suivent l'avis du dépôt de la liste, de demander par écrit, au Conseil de la municipalité où il est ainsi qualifié, d'être porté sur la liste, bien que son nom n'apparaisse pas même encore sur le rôle d'évaluation alors en force. *Forest vs. La Corporation de la paroisse de St-Paul l'Ermite.* 6 R. L., 411.

*Held:* That voters' lists illegally prepared are in force under 452 R. S. Q. until set aside, and an election held upon them will not be annulled. *Jones et al. vs. Dubrule.* 17 R. L., 401.

*Held:* 1° That a petition, by a municipal elector will not be rejected upon the ground that he has not therein alleged himself to be a municipal elector, if he is, in fact, a municipal elector, and his want of qualification is not specially raised in the pleadings of the Respondent.

2° That voters' lists of a town prepared from a valuation roll which has not been legally homologated will be set aside, on petition of a municipal elector.

3° That a valuation roll of a town cannot be legally homologated under art. 4507 R. S. Q. until the first general session after the expiry of the 30 days mentioned in art. 4506, and that, at a session held after the expiry of the 30 days, but which has been adjourned from a general session commenced during the 30 days, the council

and during the districts of the the valuation nevertheless t article 1061. (R. chap. 54, s. 17

has no jurisdiction the valuation roll Alexander vs. Con

*Jugé:* Que le lo pas d'évaluation c nscrit sur la liste

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and during the months of June or July, in the other districts of the province.—The amendments so made to the valuation roll, come at once into force, subject nevertheless to the appeal to the circuit court under article 1061. (*R. S. Q.*, art. 6158, as amended by 52 Vict., chap. 54, s. 17.) (1)

has no jurisdiction to homologate, and a resolution homologating the valuation roll, at such adjourned session, will be set aside. *Alexander vs. Corporation of the town of Richmond.* 17 R. L., 402.

*Jugé*: Que le locataire d'une partie divisée d'un immeuble, qui n'a pas d'évaluation distincte au rôle d'évaluation, n'a pas droit d'être inscrit sur la liste des électeurs des députés à l'assemblée législative, art. 173 et 174 S. R. Q. *Beaulieu vs. Corporation de la paroisse de Ste-Mélanie.* 17 R. L., 429.

*Jugé*: 1° Que d'après l'acte électoral de Québec, la qualification foncière exigée des électeurs parlementaires doit exister au moment de la confection de la liste et que le rôle d'évaluation ne fait foi que de l'estimation des biens fonds.

2° Que lorsque un électeur dont le nom est porté sur la liste électorale n'est pas qualifié de la manière indiquée sur la dite liste, mais qu'il est réellement qualifié d'une autre manière son nom ne doit pas être retranché de la liste.

3° Que pour les locataires, il n'est pas nécessaire que le montant du loyer soit porté au rôle pour avoir le droit d'être inscrit au rôle, il suffit qu'il soit de fait qualifié suivant la loi.

4° Que lorsqu'une personne est propriétaire d'une partie distincte d'un immeuble porté au rôle d'évaluation, mais que cette partie n'est pas évaluée séparément de l'immeuble, elle n'a pas le droit d'être portée sur la liste électorale. *Mongean vs. La Corporation de la paroisse de St-Bruno.* 3 M. L. R., 279.

*Jugé*: 1° Que le conseil d'une corporation municipale n'a pas le droit de reviser la liste électorale sous l'acte électoral de Québec et d'y ajouter et d'y retrancher des noms sans que des plaintes aient été déposées devant lui, et sans donner avis aux personnes dont les noms doivent être ainsi retranchés.

2° Que tout électeur a droit de se plaindre de cette illégalité et d'en appeler à un juge de cette décision du conseil municipal. *Robertson vs. La Corporation de la paroisse de St-Vincent-de-Paul.* 3 M. L. R., 178.

(1) *Jugé*: 1° Que tout électeur parlementaire est intéressé à demander la correction annuelle du rôle d'évaluation, vu que les listes électorales doivent être faites d'après le rôle d'évaluation.

2° Qu'il y a droit d'appel à la Cour de Circuit, en vertu des arts. 1061, et 746a du Code municipal, du refus d'un Conseil municipal de prendre en considération une plainte faite en vertu de l'article 746a du Code municipal, même s'il n'a pas été produit de plainte écrite devant le Conseil, pourvu que la plainte ait été faite d'une manière assez précise pour qu'il en reste des traces écrites. *Boileau vs. La Corporation de la paroisse de Ste-Geneviève.* 18 R. L., 74.



each day he may neglect or refuse to execute such order. (1)

**750.** If they are fenced on either side, or otherwise divided off from the remaining land, and are not habitually kept closed at their extremities, they are municipal roads; but the property in the land and the obligation to maintain such roads continue vested in the owner or occupant.—The council, or the board of delegates who have the management of such roads, may order the owner or occupant to close the same by means of fences or gates, under a penalty of twenty dollars for each day he may neglect or refuse to execute such order. (2)

**751.** Public roads under the control of the federal or provincial government and turnpike roads governed under letters-patent or special acts or under the law respecting companies for the construction of roads and other works, do not fall under the control of municipal corporations.—2. Roads and bridges built by the provincial government in a municipality, are at the charges of the local municipality or of the municipality of the county, as the case may be, in the same manner as all other roads and bridges.—3. Any municipal council has the right to regulate by *procès-verbal* any colonization road or bridge built by the provincial government, but cannot order it to be closed without an order of the Commissioner of agriculture and colonization.—4. If, however, the government establish toll gates upon any colonization road or bridge, it ceases to be at the charges of the municipality. (R. S. Q., art. 6159.)

(1) *Jugé*: Pour qu'un chemin reçoive l'application de la 18 Vict. cap. C., Sec. 41, il faut qu'il ait été en usage pendant au moins dix ans et sans aucune contestation quelconque. *Querre*. C'estatut est-il resté en force depuis la promulgation du Code Municipal? Fortin et Truchon, en appel. Tessier, Cross, Church, Bossé, Doherty, JJ., 6 déc. 1888. 12 L. N., 280.

(2) *Jugé*: Que lorsqu'un chemin passant sur la terre d'un particulier n'a pas été ouvert par l'autorité municipale, et n'a servi au public que pendant neuf ans et n'est clôturé d'aucun côté, il ne doit pas être considéré comme chemin municipal, mais comme chemin de tolérance, et, partant le propriétaire du terrain sur lequel il passe peut le fermer à son gré. Fortin et al et Truchon 17 R. L., 59.

**752.** The ground occupied by any municipal road belongs to the municipal corporation under whose control it is placed, and cannot be in any manner alienated, so long as it is employed for such purpose.—This article does not apply to the ground of a road which leads solely to a ferry, or pay-bridge, and which is maintained at the expense of the proprietors of such ferry or pay-bridge. (1)

**753.** Every part of the land of a discontinued road returns of right to the land from which it had been detached and is at the charge of the occupant of such land.—If the land of the discontinued road has not been taken from the neighboring lots, it returns of right to the lands between which it is situated, in the proportion of one-half to each.—Nevertheless, if one of the proprietors whose property borders upon the discontinued road, gives the ground or a part thereof required for the new road, the land of the former road belongs to him proportionately to the extent of that given by him.—Persons who have shares of fencing along the discontinued road, have the right of removing such fencing, within fifteen days from the closing of the road. (*R. S. Q.*, art. 6160)

**754.** Municipal roads are either local roads or county roads.

**755.** Until otherwise provided in virtue of articles 758 or 759;—1. Every municipal road or every part thereof, wholly situate in one local municipality is a

(1) *Jugé*: Qu'une association incorporée par le lieutenant-gouverneur en conseil, par lettres patentes, sous le grand sceau de la province, pour établir des systèmes de téléphone, ne peut ériger des poteaux pour les fins de sa ligne, dans les limites d'une cité, sans l'autorité législative, ou sans avoir obtenu l'autorisation de la corporation municipale, quoique les lettres patentes lui donnent l'autorisation générale d'ériger des poteaux dans les rues. *The Sherbrooke Telephone Association vs. La Corporation de la cité de Sherbrooke*. 19, R. L., 538.

*Jugé*: Qu'une corporation de cité qui, en vertu de l'autorisation qui lui est donnée par la législature, permet à une compagnie de chemin de fer de passer dans les rues de la cité, n'encourt aucune responsabilité, vis-à-vis des propriétaires longeant cette rue. *La Corporation de la cité de Québec vs. Jean-Bte Renaud*. 19, R. L., p. 590.

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local road ;—2. Every municipal road or every part thereof, lying between two local municipalities, or partly in one local municipality and partly in another, is a county road ; and if such road or part of a road lies between two local municipalities which form part of two county municipalities, it is the road of such two county municipalities (*R. S. Q.*, art. 6161). (1)

**756.** Every municipal road known, at the time of the coming into force of this code, either as a local or a county road, continues to be so known and to be governed as such, until the contrary is provided under the authority of this code. (2)

(1) *Held*: That a road entirely situated in a local municipality, but touching all along the division line dividing the territories of two local municipalities is a county road according to the M. O. as being placed between two local municipalities :—*Goulet vs. Corporation de Ste. Marthe*, 29 L. C. J. 107.

(2) *Held*: That a road established before the statute concerning municipalities and roads in lower Canada and before the M. O. and at a time when there existed no other municipal council but county council, is a county road and that it must always be known and designated as such until it is changed by competent authority, which is the county council itself ; and that a local municipal council has no power to amend or modify the *procès-verbal* establishing such road, *Goulet vs. Corporation of Ste. Marthe* 29 L. C. J. 107.

*Held*: That a county municipality who declares county road one which was local up to then, becomes responsible of its repairs and on default of such municipality to keep it or have it kept in good order, it is liable to the fine imposed by the law.—*Huot vs. Corporation du comté de Montmorency*, 2 L. C. R. 253.

*Held*: No action for *quantum meruit* lies against a municipal corporation for road.—*Boutelle vs. The Corporation of the village of Anville*, 6 R. L., 2.

It is the duty of municipal corporations to keep or cause to be kept in repair, all local roads subject to their control, including roads leading to, and established for the benefit of the inhabitants of another municipality. And the by roads to be kept in repair by the inhabitants of the range to which they lead from any other range, are by-roads leading from one range to another in the same municipality.—*Dubois vs. The Corporation of Ste. Croix*, 1, Q. L. R., 313.

*Held*: 1. That the declaration authorized by art. 758, M. O., to make county road a local road, or *vice-versa*, must be published under art. 761 only in the municipalities interested by the *procès-verbal* ; 2. That a designation of the taxable real estate in a *procès-verbal* by referring to the successive numbers of the valuation roll indicating such real estate is legal and regular.—*McEville vs. La Corporation du comté de Bagot*, 7 R. L. 360.

**757.** Municipal roads are under the control of the corporation of the municipalities to which they belong. If they are the roads of several county municipalities they are, under joint control of the corporation of such county municipalities, represented by the board of delegates.

**758.** The county council may, by resolution or in a *procès-verbal*, declare:—1. That any road under control of a local corporation of the county municipality, be for the future a county road; or—2. That any county road under the exclusive control of the corporation of the county, be for the future a local road under the control of the corporation of the local municipality in which it is situate, or which it separates from any other municipality. (1)

**759.** The board of delegates may also, by resolution or in a *procès-verbal*, declare:—1. That any local road, situate within the limits of the county municipalities, whereof it represents the corporations, be, for the future, a county road under the joint control of such county corporations; or—2. That any county road under the exclusive control of one of the county corporations which it represents, be for the future under the joint control of all such county corporation; or—3. That any road under the joint control of the county corporations which it represents be, for the future, a county road under the exclusive control of one only of such county corporations, or a local road under the control of the corporation of the local municipality in which it divides from another municipality.

**760.** From the date of any declaration made under either of the two preceding articles, the work to be performed on any road, with respect to which the resolution has been passed, is either at the sole charge of the rate-payers of the municipality, or municipalities, whereof the corporations have the control of the road, and

(1) *Held*: Where a county council declares a road to be a county road merely for the purpose of abolishing it, the Court will interfere and overrule such abusive exercise of power.—*La Corporation du comté d'Artabaska & Patoine*, 9 L. N., 82.

who are liable by law, or a case may be.

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(1) *Held*:—T. O. to make count under art. 761 *verbal*; That a *bal* referring to t ing such real est ration du comté

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*Jugé*: Qu'un cor chemin dont une l'autre partie dans clarer d'abord par est un chemin de c être maintenu sous de Stanstead, Brom ception de certaine C. M., il doit être sur toutes les corpo des biens taxables, 190 et 191, et qu'un corporations locales contenue dans les Corporation du com

*Jugé*: Que lorsqu sous la surveillance ou est situé l'ouvrag les contribuables p paroisse de Ste-Gen

who are liable for such work by the *procès-verbaux*, or by law, or at the sole charge of the corporation as the case may be.

**761.** The declaration mentioned in articles 758 and 759, cannot be made until after a public notice to that end has been given, and they must be published immediately after the passing thereof. (1)

**762.** The powers conferred by articles 658 and 659, on the county council and the board of delegates, may

(1) *Held*:—That the declaration authorized by art. 758 of the M. C. to make county road, a local road, or *vice-versa* must be published under art. 761 only in the municipalities interested by the *procès-verbal*; That a designation of the taxable real estate in a *procès-verbal* referring to the successive numbers of the valuation roll indicating such real estate is legal and regular. — *McEvilla vs. La Corporation du comté de Bagot*, 7, R. L., 360.

*Held*: 1° That the neglect to promulgate a by-law does not prevent a party interested from taking proceedings to set it aside.

2° Where a county council declares a local road to be a county road merely for the purpose of abolishing it, the Court will interfere and overrule such abusive exercise of power. *Corporation du comté d'Arthabaska & Patoine*. 6 L. N., 82.

*Jugé*: Qu'un conseil municipal de comté n'a pas le droit de régler les travaux d'un chemin, par un *procès-verbal*, lorsque dans ce *procès-verbal*, il déclare que ce chemin sera à l'avenir un chemin local, et qu'un tel *procès-verbal* peut être annulé par une poursuite d'un intéressé, à la Cour Supérieure. *Legault vs. la Corporation de la paroisse de St-Joachim de la Pointe-Claire*. 17 R. L., 357.

*Jugé*: Qu'un conseil de comté ne peut, par *procès-verbal*, établir un chemin dont une partie se trouve dans une municipalité locale et l'autre partie dans une autre municipalité locale du comté, sans déclarer d'abord par résolution ou par *procès-verbal* que ce chemin est un chemin de comté; que tout chemin établi par un comté doit être maintenu sous le contrôle de tel comté; et que dans les comtés de Stanstead, Brome, Missisquoi, Huntingdon et Richmond, à l'exception de certaines municipalités mentionnées dans l'article 1080, C. M., il doit être construit et entretenu par contribution générale sur toutes les corporations du comté, en proportion de la valeur totale des biens taxables, excepté dans le cas mentionné dans les articles 190 et 191, et qu'une répartition pour un chemin de comté sur deux corporations locales dans le comté, non en conformité à l'exception contenue dans les articles 190 et 191, est illégale. *Ball et al., et La Corporation du comté de Stanstead*, 17 L. C. J., 312.

*Jugé*: Que lorsqu'un *procès-verbal* déclare qu'un ouvrage sera fait sous la surveillance du conseil de comté, la corporation de la paroisse où est situé l'ouvrage n'a pas le droit de le faire faire et de poursuivre les contribuables pour en recouvrer le coût. *La Corporation de la paroisse de Ste-Geneviève vs. Legault*. 5 R. L., 467.

be also exercised by them in regard of any road, to be made in the same manner as for roads already made.

**762a.** Any by-law or *procès-verbal*, made to close a road leading into or from any laboring local municipality, or for diverting such road at a point where it leads into or from such municipality, has no force or effect until approved of by a resolution of the county council, carried in the affirmative by two-thirds of the members composing such council, — If the neighboring local municipality forms part of another county municipality, the by-law or *procès-verbal* must be approved of by a resolution of the board of delegates of such county municipalities, carried in the affirmative by two-thirds of the members composing the board of delegates. (*R. S. Q.*, art. 6162.)

**763.** All county or local municipal roads are either front roads or by-roads. — Front roads are those whose general course is across the lots in any range, and which do not lead from one range to another in front or in rear thereof. — All other municipal roads are by-roads.

**764.** A front road passing between two ranges is the front road of both ranges, unless such roads be by resolution of the council, or of the board of delegates under whose jurisdiction it is situate, declared to be the front road of one of such ranges.

**765.** The front road of a lot includes every portion of such road which crosses such lot throughout its breadth, or upon which such lot borders at one or other of its extremities. — Whenever a road is the front road of two ranges, the exact half of such road, adjacent to each lot, is the front road of such lot. — But the council may order that the front road between two lots or two ranges or dividing a lot be kept in such manner, that each interested party shall have his share of the front road on the whole width thereof and not on half the width throughout the whole of such part of the road. — Roads in village municipalities are front roads, unless otherwise ordered by the council. (Amended by 52 Vict. cap. 54 s. 18).

**766.** Any *procès-verbal*, or any by-law respecting

municipal road already made, the future of a road already declared the future of a road whatsoever set forth the

**767.** Every road or reserved opening upon giving the notice for that standing the road provided always necessary, or such street.

**768.** Every road and every by-road in width, between

**769.** The council prescribes, in them. — Municipal coming into which they may be less than the roads were established

**770.** Every road, or every road, may retain declaration, it

**770a.** In a Statute of the in a city town sixty feet English

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municipal roads, may declare that any new road, or any road already designated or recognized as a by-road, be for the future a front road, or that any new road, or any road already designated or recognized as a front road be for the future a by-road.—Every declaration constituting any road whatsoever, a front road, must, at the same time, set forth the land of which such road is the front road.

**767.** Every village council owns the land acquired or reserved for streets and public squares, and may, on opening up such streets, deviate from the plan, by giving the land marked out in such plan, in compensation for that which has been taken in its place, notwithstanding the provisions of title eighth of this book ; provided always that the opening of such street has become necessary, owing to the sale of some lots bordering on such street. (R. S. Q., art. 6163).

**768.** Every front road must be at least thirty-six feet, and every by-road at least twenty-six feet, French measure, in width, between the fences on each side thereof.

**769.** These roads may be wider than this article prescribes, if it is so ordered by the acts which govern them. — Municipal roads, existing at the time of the coming into force of this code, may retain the breadth which they have at such time, although such breadth be less than that required by the law under which such roads were established.

**770.** Every front road which is declared to be a road, or every by-road which is declared to be a front road, may retain its original width, if, previous to such declaration, it possessed the width required by law.

**770a.** In accordance with art. 4616a of the Revised Statute of the Province of Quebec, every road or street in a city town or village shall have a width of at least sixty feet english measure. (53 V., c. 47, s. 2.)

**771.** Every road must have, if it require it on each side thereof, a ditch properly constructed, and having sufficient width and fall to carry off the water of the road and of the adjoining lands, and as many small drains as are necessary communicating from one ditch to the other,

**772.** If in order to convey the water from off any road, it is necessary to make any water-course upon the lands bordering upon such road, such water course is regulated by a *procès-verbal* drawn up in accordance with the provisions of article 884, and is constructed and kept in repair either by the persons liable for road work upon such road, or at their expense, or by the owners or occupants of the lands, the waters whereof pass off or should pass off by such water-course, according as it is provided in the *procès-verbal*.

**773.** Ditches, small drains and bridges, of less than eight feet span, form part of the municipal roads on which they are situated.—Pits, precipices, deep waters and other dangerous places, which must be filled up or protected in such a manner as to prevent accidents, form also part of the roads on which they are situated.

**774.** The fences which separate any front road from any land are at the costs and charges of the owner or occupant of such land, when the same are necessary.—But the establishment of a front road between two ranges or two concessions in no manner alters the obligations of neighbors, when such road is solely at the charges of one of the ranges or of one of the concessions. (*R. S. Q.*, art. 6164).—Nevertheless when a front road of an upper range is situated in whole or in part in a lower range, the proprietors of the range of which it is the front road are none the less bound to keep it in order. (53 V., c. 63, s. 8.)

**775.** Upon any road which runs along the line of any land, one-half of the fence which separates such road from the land, forms part of the work to be done upon such road.—But if a by-road divides a piece of land into two portions, the owner of such piece of land is not obliged to put up more fences along such by-road than he was before the establishment thereof; the remainder of the fencing forms part of the work on the by-road.—The portions of the fences to be made on such roads and by-roads, in default of provisions therefor in any *procès-verbal* or by-law, as the case may be, are determined by the road inspector, in such a manner

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that the position of the neighboring proprietor is not more onerous than it was before the establishment of such road or by-road. (*Id.*, art. 6165) (1)

**776.** Every fence required on any municipal road must be well made, and kept in good order according to law.

**777.** Fords form part of the municipal roads with which they are connected. If a ford unites two different roads, one half of the ford forms part of the road to which it is adjacent.—They must be marked out with guide poles, and kept at all times free from loose stones and other impediments; and the bottom thereof must be kept as smooth and even as practicable.

**778.** Noxious weeds, such as daisies, thistles, wild endive, chicory, celadine, and plants considered as such, which grow upon municipal roads, must be cut down and destroyed between the twentieth day of June and the tenth day of July in each year, by the persons who are bound to keep the roads upon which they are found in repair. (*R. S. Q.*, art. 6166).

**779.** The work, ordered by the law, and by *procès-*

(1) *Held* :—That the owner of property through which the municipality opens a front road is bound to make the fences separating his property from such front road at his own costs, and that this rule applies to cases as well before as since the coming into force of the *M. C.*—*Whitman & The Corporation of the Township of Stanbridge*, 26. *L. C. Jurist*, 144.

*Jugé* : Que l'article 775 *C. M.* n'autorise le surintendant, en faisant le *procès-verbal* d'un chemin, à inclure, dans les dispositions de ce *procès-verbal*, que la moitié de la clôture qui se trouve à la charge du public, et que la moitié qui reste à la charge des propriétaires voisins, n'est pas sujette aux dispositions de ce *procès-verbal*. La Corporation de la paroisse de *St-Luc vs. Wing*. 12 *R. L.*, 546.

*Jugé* : Que, lorsqu'une Corporation municipale règle qu'elle prendra à sa charge et à ses frais les travaux nécessaires à l'entretien d'une route et que, de fait, elle se substitue à ceux qui y étaient auparavant obligés, en vertu d'un *procès-verbal* antérieur au Code municipal, tel *procès-verbal* est virtuellement abrogé, en autant du moins qu'il imposait aux intéressés l'obligation à ces travaux.

Qu'il suit de là, que telle corporation est, quant à la confection et à l'entretien des clôtures, soumise aux dispositions de l'article 715 *C. M.*, et que son refus de s'y conformer donne aux intéressés droit à l'action confessoire, ainsi qu'une indemnité pour les travaux exécutés d'urgence pareux. La Corporation de la municipalité de l'Avenir *vs. Duguay*. 14 *R. L.*, 570.

verbal or by-law as the case may be, necessary for constructing, improving and keeping in repair any municipal road is performed:—1. Either by the persons who are liable therefor, under the *procès-verbaux* or by the by-laws which regulate such road, or in default of *procès-verbaux*, or by-laws, under the provisions of the law;—2. Or, by the corporation of the local municipality, if a by-law has been passed in virtue of article 535, or in any other case in which it is laid down in the by-law which orders such work, and that the same must be performed by the corporation.

**780.** Crown lands are not subject to contribute work upon municipal roads; and the front roads of such lands are made and maintained as by-roads.—Nevertheless, the occupants of crown lands, whether under or without location tickets, are liable for the work on front roads or by-roads which appertain to such lands, in the same manner as a proprietor of any other land.

**781.** Whenever any lot or piece of land has been divided between several owners or occupants, after the passing of a by-law or the completion of a *procès-verbal*, in virtue of which such lot or place of land is liable for work upon any municipal road, all the owners or occupants of the lot or piece of land so divided are jointly and severally liable, saving to each his recourse against the others in proportion to the value of the land occupied, for the works ordered by the *procès-verbal* or by-law, until otherwise regulated by a subsequent *procès-verbal* or by-law, according as such work are regulated by *procès-verbal* or by by-law.

**782.** No rate payer, of any local municipality, is liable for work on any road situated within any neighboring local municipality, unless such road be a county road. (1)

(1) *Jugé*: Qu'un règlement municipal fait par un conseil local ordonnant que les ponts sur un chemin soient faits par tous les propriétaires qui y passent les eaux de leurs terrains, peut être annulé pour cause d'illégalité, si les propriétaires et les terrains sont de plusieurs municipalités locales; que ce chemin est un chemin de comté et tombe sous la juridiction du conseil de comté. *Goulet vs. La Corporation de la paroisse de Ste-Marthe*. 29 L. C. J., 107.

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**783.]** The municipality in question performed the works, are the superficies of the land are liable for the work of such land to the works of the land, which have until they are

**784.** All in the manner and by the power of the council

**785.** All local roads under the supervision of the road committee, are situated, of a special order, verbal or otherwise, delegates have—Such speciality, subject to the same penalties for road or side-w

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(1) *Held*:—The municipality is liable for all damages resulting from the work done by the corporation

(2) *Jugé*: Que par un procès-verbal les travaux sont mis sous la surveillance de l'inspecteur de voirie, l'inspecteur de voirie est responsable des travaux d'entretien

**783.** The works on all the by roads of the municipality in general, or on any particular by-road, to be performed by the labor of the persons liable for such works, are divided either in proportion to the extent in superficies of such land, by reason whereof such persons are liable for such by-road, or in proportion to the value of such land, according to the decision of the council of the municipality.—The by-laws and *procès-verbaux*, as to the works to be performed, according to the extent of the land, in force on the 27th day of May 1882, and which have not since been repealed, remain in force until they are repealed or amended. (*R. S. Q.*, art. 6167).

**784.** All works upon municipal roads are executed in the manner prescribed by the provisions of this code, and by the *procès-verbaux*, or by the by-laws or orders of the council, respecting the same. (1).

**785.** All works, ordered to be done upon county or local roads and upon side-walks, are executed either under the superintendence and control of the inspector of the road division in which such roads or side-walks are situated, or under the superintendence and control of a special officer appointed for such purpose, by *procès-verbal* or otherwise, by the council or by the board of delegates having the control of such roads or side-walks.—Such special officer is invested with the same authority, subject to the same obligations, and liable to the same penalties as the road inspectors, in regard of the road or side-walk work for which he is appointed. (2)

former une municipalité séparée, les contribuables dans la partie détachée ne sont pas obligés, par aucun *procès-verbal*, en vertu duquel ils étaient antérieurement obligés, à entretenir le chemin dans la partie dont ils ont été séparés. *Déchesnes vs. La Corporation de Ste-Marie*, 7 Q. L. R., 50.

(1) *Held*.—That a municipal corporation is bound to indemnify for all damages resulting from the bad condition of its roads.—*Gaudet vs. La corporation du township de Chester-Ouest*, 1 R. L. 75.

(2) *Jugé*: Que l'entrepreneur des travaux d'une route règlementée par un *procès-verbal* homologué par un bureau de délégués, lesqueis travaux sont mis sous le contrôle d'une municipalité locale et d'un inspecteur de voirie de cette municipalité, est garant vis-à-vis cet inspecteur de voirie des dommages résultant de l'inexécution des travaux d'entretien de cette route. *Godin vs. Moïse Martin*. 13 R. L., 86.

**786.** The work of building, improving or keeping municipal roads in repair, may be performed by contract, awarded and entered into, in accordance with the rules laid down in articles 892 to 901, both inclusive, if it is so ordered by the *procès-verbaux* or by the by-laws, which regulate the same, or by the council.

**787.** Repairs made on municipal roads, at the expense of the corporation, may be given and awarded in the manner and at the time prescribed in article 828.

**788.** Every municipal roads, must be at all times kept in good order, free from holes, cavities, ruts, slopes, stones, incumbrances, or impediments, whatsoever, with hand-rails at dangerous places, in such a manner as to permit of the free passage of vehicles of every description, both by day and night, except in the case of article 389.—The side-walks must also be kept in good repair, free from all obstacles and impediments whatsoever, with hand-rails at dangerous places.

**789.** Every person bound to supply materials or perform work upon municipal roads or upon side-walks, is *in mora* to fulfil such obligations, from the time when the by-law, resolutions, *procès-verbaux* or acts of apportionments, prescribing the performance of such work or the supplying of such materials, come into force, without any special or public notice being requisite, except in the case of work to be performed in common.—Persons liable to perform work required by the provisions of the law, are always *in mora* to perform such work. (*R. S. Q.*, art. 6168).

**790.** If the work has been given out by contract, the contractor is liable to the same obligations and penalties as the persons or corporations liable for the work for which he has contracted, and he is their surety for all damages, penalties and costs, which they may be called upon to pay, in default of the work being executed.

**791.** Every person bound to perform, on municipal roads or side-walks, work required by the provisions of the law, and of the *procès verbaux*, or by-laws which regulate such roads or side-walks, is responsible for all

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damages resulting from the non-execution of such work in favor of the parties interested, or of the corporation, or of any municipal officer, when such damages have been exacted from them, and is further liable to a penalty of from one to four dollars for each day that he refuses or neglects to perform such work.

**792.** Every person who, without reason or authority, cuts, mutilates, or injures any trees planted or preserved for ornament on any municipal road, or any posts, inscriptions, works, or articles forming part of, or connected with any municipal road, is responsible for all damages occasioned thereby, and further incurs a penalty of not less than two nor more than five dollars.

**793.** Every corporation is bound to cause the roads and side-walks under its control to be maintained in the condition required by law, by the *procès-verbaux* and by the by-laws which regulate them, under a penalty not exceeding twenty dollars for each infraction thereof.—Such corporation is further responsible for all damages resulting from the non-execution of such *procès-verbaux* by-laws, or provisions of law, saving its recourse against the officers or rate-payers in default.—If the road is under the control of several county corporations, such corporations are jointly and severally bound to cause such road to be maintained in the required condition under the same penalty and responsibility.—But no suit shall be taken against any such corporation, without fifteen days' notice of such suit being given in writing to the secretary treasurer of the corporation, which notice may be given by registered letter, and shall be at the cost of the person giving it.—If the suit is taken in the name of a person who is not a rate-payer of the municipality, he must deposit ten dollars with the clerk of the court on the issue of the summons, to guarantee the costs. (R. S. Q., art. 6169). (1)

(1) *Held:* 1. That according to art. 793 a municipal corporation is liable to a fine if it neglects to have the roads and bridges kept in the state of repairs required by-law, or by by-laws or by *procès-verbaux*.—2. That this obligation, imposed by art. 793, M. C. is a duty of inspection and is not limited to the case where a by-law has



**794.** Every local council, whenever a by-law or resolution is passed in virtue of articles 526 or 527, or every municipal council, whenever a petition has been

been made according to article 535:—3. That when a bridge built by the government on a river situate in the municipality has been carried away by the waters, the corporation is not liable to a fine for not having rebuilt it:—4. *Semble* that if the bridge has been built in virtue of a resolution of the municipal authorities and when built has been destroyed the corporation would be guilty of negligence in not rebuilding it.—*Giguère vs. La Corporation du Township de Chestsey*, 5 R. L. 285.

*Held*: That in a suit for a penalty against a corporation for having neglected to repair the roads, it is not necessary to allege in the declaration that the roads in question are situated in the municipality of the parish and under the control of the defendant, when the plaintiff indicates in what parish is situated the portion of the road he alleges to have been in bad order.—That municipal corporations are liable to the fine imposed by art. 793, M. C., for the bad state in which is a municipal road of which the repair belongs to the rate payers, even in the absence of the report of the inspector required by art. 399, M. C. and of the by-law required by art. 535, and that it is not necessary that an action for the recovery of the fine be directed against the proprietor.—*Paré vs. La Corporation de Ste Clément*, 5 R. L. 428.

It is the duty of municipal corporations to keep, or cause to be kept in repair all local roads subject to their control, including roads leading to and established for the benefit of the inhabitants of another municipality; and by-roads to be kept in repair by the inhabitants of the range to which they lead from any other range are the by roads leading from one range to another in the same municipality.—*Dulois vs. The Corporation of Ste-Croix*, 1 Q. L. R. 313.

*Held*: That a plaintiff who sues a municipal corporation for the fine imposed by art. 793, must prove that he has given the eight days notice required by the amendment to said article, 45 Vict., ch. 35 (now 15 days).—*Perrault vs. Corporation of the Parish of Ste Esprit*, 12 R. L. 148.

*Held*:—That the notice of eight days and the deposit of ten dollars required by sec. 35 of 45 Vict., ch. 35, before the action given by art. 793, are not required in the civil suits instituted against municipal corporations for the bad condition of their road; that an exception to the form based on the want of notice and of deposit must be dismissed.—*Laurin vs Corporation of the Parish of Sault-au-Récollet*, 7 L. N. 318.

Les défendeurs sont responsables de dommages causés aux marchandises du demandeur, déposées dans sa cave, par l'eau qui s'était répandue par une ouverture pratiquée pour introduire un tuyau pendant que les défendeurs faisaient les réparations à la rue. *Béliveau vs. la Corporation de Montréal*. 6 L. C. R., 467.

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dommages envers une personne qui est tombée dans la cave d'une maison qui n'avait pas été reconstruite et dont l'emplacement, nonobstant le règlement de la Corporation à cet effet, n'avait pas été enclos, la cause de tels dommages étant trop éloignée. Bélanger vs. The Mayor of Montreal. 8 L. C. R., 228.

Une corporation municipale est tenue d'indemniser pour tous les dommages résultant du mauvais état de ses chemins. Gaudet vs. La Corporation de Chester Ouest. 1 R. L. 75.

Le pouvoir accordé à une corporation par la Législature de faire une certaine chose n'exempte pas cette corporation de responsabilité en dommages, au cas où la chose cause un dommage à un particulier. Grenier et la Cité de Montréal. 3 L. N., 51.

A city corporation is not liable for damages caused in the construction of necessary works, where no negligence appears, or for damages resulting from the omission to make a drain in a street where no drain previously existed. Riopel vs. City of Montreal. 3 L. N., 320.

The Corporation of Montreal is liable for damages caused by the bad state of the public footpaths in the city and the Corporation has recourse en garantie for such damages against the proprietor of the premises opposite the footpath. City of Montreal et Larose. L. N., 406.

The Corporation of Montreal is liable for damages caused by the bad state of the public footpaths in the city and the Corporation has a *recours en garantie* for such damages against the proprietor of the premises opposite the footpath. Guillaume vs. City of Montreal. L. N., 406.

The damage caused to adjoining proprietors by the alteration, by the City Council, of the level of a roadway in the City of Montreal gives rise to an action of indemnity against the City. Morrison and Mayor of Montreal, 4 L. N., 25.

La Corporation de Montréal est tenue de dommages conjointement avec un contracteur dans un cas où une personne a été blessée et jetée hors de sa voiture par suite d'une collision avec des matériaux déposés dans la rue sans une lumière telle que voulue par les règlements. Diotte vs. La Cité de Montréal, 4 L. N., 243.

When it was proved that the sidewalk was usually kept in excellent condition, and that the influence of the weather at the time of the accident was specially unfavorable the action of a person who slipped and sustained injury was dismissed. Lulham vs. City of Montreal, 6 L. N., 63.

Dans les mois d'octobre 1873 et janvier 1874 l'égoût de la rue Ste-Elizabeth s'est obstrué, et trois maisons dont l'intimité était propriétaire ont été inondées, ce qui a causé des dommages aux maisons et aux meubles qui y étaient. De là action pour \$2,000 et jugement pour \$172.20. Jugement confirmé. Cité de Montréal et Bourgoin, 1, 19 mars 1877.

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ought to be under its control, praying that the work to be performed upon such road, be settled and determined, must without delay:—1. Call together, at one of its

la circulation l'espace environnant l'ouverture d'un passage souterrain, sans protéger le public au moyen d'une balustrade ou autrement, constitue une négligence et une faute de la part de la corporation, et en conséquence elle est responsable pour les dommages résultant de cette négligence ou faute. *Brault vs. La Corporation de Québec*, 10 Q. L. R., 291.

A municipal corporation using the ruins of burned houses to repair a road will be responsible for the loss of a horse, caused by his treading on a nail that was amongst such ruins. *Bernier vs. Corporation de Québec*, 11 Q. L. R., 70.

The City of Montreal is liable for damages caused to a horse and vehicle, by the wheel having sunk into the earth upon a public street, where an excavation for a tunnel, had recently been filled in, notwithstanding the fact that there was a flaw in the wheel unknown to its owner, it having been proved that the wheel was sufficient for ordinary purposes, but not strong enough to withstand the strain put upon it by sinking into the earth. *Archambeault vs. City of Montreal*, 25 L. C. J., 225.

Une corporation municipale est responsable des dommages causés par suite du mauvais état des rues, sans qu'il soit nécessaire de prouver que la corporation a été notifiée du mauvais état de ces rues. *Kelly vs. La corporation de la cité de Québec*, 10 R. L., 605.

La corporation de la cité de Montréal est responsable des dommages occasionnés à une personne et résultant d'une chute que cette personne a faite sur un trottoir en mauvais ordre. *Jodoin vs. Cité de Montréal*, 11 R. L., 434.

Une corporation municipale qui en vertu d'une autorisation de la Législature permet l'élévation d'une rue, ne sera responsable que des dommages résultant de la dépréciation en valeur des propriétés affectées par le changement de niveau, et elle n'est pas tenue d'élever les bâtisses dans la même proportion que la rue. *Brousdon vs. La cité de Montréal*, 12 R. L., 110.

La corporation de la cité de Montréal est responsable pour dommage causé à des effets emmagasinés dans une cave formant partie de lieux loués aux demandeurs, en conséquence de l'engorgement d'un puits dans un des canaux publics aux soins de la corporation, les eaux en conséquence refluant dans la cave par le canal privé. Les frais de louage d'autres lieux pour l'emmagasinage des effets, seront inclus dans les dommages accordés, ces dommages n'étant pas le résultat d'une cause trop éloignée. *Mayor... of Montreal vs. Mitchell*, 14 L. C. R., 437.

Lorsqu'un chemin est en aussi bon état qu'il est possible de le maintenir à raison de la saison et du voiturage qui s'y fait et qu'il paraît même meilleur que les autres chemins et meilleur qu'il n'avait été les années précédentes, la corporation ne sera pas responsable des dommages soufferts et causés par le mauvais état de ce chemin. *Beaucage vs. Corporation de Deschambault*, 14 R. L., 655.

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cause à un propriétaire sur une rue dont elle change le niveau. *Turgeon vs Cité de Montréal*, M. L. R. 1 S. C., 111.

Lorsque la cité de Montréal est en possession de canaux d'égouts, quand même ces égouts n'auraient pas été construits par elle-même, elle est tenue en loi de les entretenir en bon état, et elle est responsable des dommages que peut causer leur mauvais état à ceux qui s'en servent, en cela ses pouvoirs ne sont pas législatifs, et elle ne peut prétendre qu'elle n'est tenue à cet entretien que suivant ses ressources pécuniaires et qu'il est laissé à sa discrétion. *Leduc vs. Cité de Montréal*, M. L. R., 1. S. C., 300.

Une corporation municipale qui fait illégalement fermer et obstruer un chemin municipal et public, existant depuis au-delà de vingt ans et qui sert de chemin de front à une concession, sera responsable vis-à-vis d'un propriétaire le long de ce chemin des dommages qui résultent de cette fermeture. *Corporation du canton d'Ireland vs. Larochelle*, 13 R. L., 696.

Dans une action en dommages contre une corporation municipale pour réclamer des dommages résultant d'un accident causé par le mauvais état des chemins, la cour, pour l'évaluation des dommages, prendra en considération la difficulté de maintenir les chemins en bon ordre à cause du mauvais temps et de la saison de l'année. *Corporation de Douglass & Maher*, 14 R. L., 45.

Lorsque le mauvais état d'une rue est le résultat de causes climatiques que la corporation municipale ne peut raisonnablement contrôler, cette dernière n'est pas responsable de dommage résultant de ce mauvais état, si surtout ce dommage aurait pu être évité par une prudence ordinaire. *Corporation de Sherbrooke et Short*, 15 R. L., 283.

The plaintiff's wife proceeding over a market place in the city of Quebec, stepped on a plank forming part of a planking of the market which broke and struck her in the face inflicting injuries for which the present action was brought. It appeared that the clerk walked over the market every day generally several times, to verify its condition, and no apparent defect existed at the place in question, but an after examination shewed the plank to have been decayed from underneath. *Held*: That the defect complained of was a latent defect due to the silent, unobservable effect of time and circumstances of which the defendants had no notice, actual or constructive: the occurrence was plainly an accident for which the defendants were not liable, no negligence having been proved against them, and the action could not be maintained. *Kelly vs. Corporation of Quebec*, 3 Q. L. R., 379.

Une personne se blesse en tombant sur un pavé, couvert de glace. Elle poursuit la corporation de Montréal en dommages. L'action est déboutée par la Cour Inférieure pour la raison que la corporation avait passé un règlement obligeant les propriétaires à nettoyer leurs trottoirs et à les tenir en bon ordre, et que la corporation n'avait pas été notifiée que le trottoir était en mauvais ordre. En appel, juge-

formed, make a by-law to settle, determine and appor-  
tion the work on such road; or—2. Appoint, a special  
superintendent, whose duty it shall be to visit the pla-

ment infirmé et \$200 de dommages accordés. Grenier et le Maire etc.,  
de Montréal, 21 L. O. J., 296.

It is the duty of municipal corporations to keep, or cause to be  
kept in repair all local roads subject to their control, including roads  
leading to and established for the benefit of the inhabitants of another  
municipality, and the by-roads to be kept in repair by the inhabi-  
tants of the range to which they belong. By-roads, or any other range, are the  
by-roads leading from one range to another in the same municipality.  
Dubois vs. The corporation of Ste-Croix, 1 Q. L. R., 313.

*Jugé:* Qu'une corporation municipale de cité est responsable du  
dommage résultant de l'insuffisance d'un arc de triomphe qu'elle a  
laissé construire, dans une rue, à l'occasion d'une démonstration  
publique, quoiqu'elle n'ait pas participé à la construction même, et  
que le droit à ces dommages n'est pas soumis à la description de  
créée par la section 3 du ch. 85 des S. R. du Canada.

Que les enfants dont la mère a été tuée par la faute d'un tiers ont  
droit, contre le tiers, à des dommages, comme consolation. 10  
R. L., 386 et 387. Vanasse et al. vs. La cité de Montréal et al.

*Jugé:* Que lorsqu'un chemin est en aussi bon état qu'il est possi-  
ble de le maintenir, à raison de la saison et du voiturage qui s'y fait,  
et qu'il paraît même meilleur que les autres chemins, et meilleur  
qu'il n'avait été les années précédentes, la corporation ne sera pas  
responsable des dommages soufferts et causés par le mauvais état  
de ce chemin. Beaucage vs. La corporation de la paroisse de Des-  
chambault, V., 14. R. L., 665.

*Jugé:* Qu'une corporation municipale autorisée à exploiter une  
usine à gaz, pour les besoins des citoyens, est responsable des dom-  
mages que cette usine cause aux voisins. Le maire & le conseil de la  
ville de Sorel & Téléphore Vincent. 17 R. L., 220.

*Jugé:* Qu'une poursuite pour dommages résultant du mauvais état  
des chemins, intentée contre une corporation municipale sans l'avis  
exigé par l'article 793 O. M. sera renvoyée sur exception à la forme.  
Bibeau et al & La Corp. de la paroisse de St-François du Lac. 17 R.  
L., 704.

*Jugé:* Qu'une corporation municipale est responsable des domma-  
ges causés aux citoyens, par la négligence de ses hommes de police  
à les protéger, lorsqu'ils peuvent le faire. Vian vs. La cité de Mon-  
tréal, 17 R. L., 511.

*Held:* 1° A municipal corporation is responsible for damages arising  
from the bad condition of the sidewalks and streets without proof  
that it had notice of the defects which led to the accident complained of.

2° That the notice of suit required by Art. 793 of the Municipal  
Code, as amended by 45 Vict. ch. 35, s. 26 and by 48 Vict. ch. 28,  
s. 15 applies not only to actions for the penalty there enacted but  
also to actions for damages resulting from the non-execution of the  
procès-verbaux and by-laws.

3° But such notice is not a matter of public record and may be

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if necessary.  
(Id., art. 61)

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*Jugé:* Qu'à l'oc  
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*Jugé:* Que la pr  
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ces mentioned in the by-law, resolution or petition, and to report to the council and to draw up a *procès-verbal*, if necessary, within the delay which the council fixes. (*Id.*, art. 6170.) (1)

(1) *Held*: That in the case of a petition from the rate-payers of a municipality, praying for the action of the council touching the nomination of a superintendent to make report on the opening or repairing of a road, those who in the appeal from the decision of the board of delegates are called Respondents by the M. C. must be the petitioners named at the foot of the petition, and not the corporation who by its council has appointed the superintendent.—*Corporation de la Paroisse de St-Alexandrie vs Mailloux*, 7 R. L. 417.

*Held*: That the publication of the notices of the meeting by the special superintendent under art. 794 should be attested by a certificate under oath, either written on the original notice or annexed to it, and parol proof at the trial is not sufficient. *Cantwell vs. The Corporation of the County of Chateauguay et al.* 23 L. C. J., 263, § 3.

*Held*: That the report of a special superintendent named to regulate the works, in the following words: "that he does think that he has the right of giving any order on the subject," must be considered as a refusal to act on his part; that the homologation of a report made in these terms is of no value whatsoever and cannot give right to an appeal to the county council. *Lami vs. Rabouin*, 1 R. L. 687.

waived by the defendant's failure to invoke the absence of notice by their pleadings, and by their admission of liability. *Charron et ux, vs. La Corporation de la paroisse de St-Hubert*, 4 M. L. R., 431.

*Jugé*: Que la cité de Montréal est responsable de l'état des trottoirs vis-à-vis des marchés publics, et que lorsqu'un accident arrive par le mauvais état de ces trottoirs qui ne seraient ni couverts de cendre, ni coupés de manière à les rendre non glissants, la cité de Montréal devra payer les dommages qui en résultera. *Gould vs. La cité de Montréal* 5. M. L. R., 45.

*Jugé*: Que la cité de Montréal sera responsable des dommages que pourront causer les pompes allant au feu dans leur voiture menée à toute vitesse, lorsque l'on ne distingue ces voitures et qu'aucune cloche n'est sonnée pour mettre le public en garde. *Gadbois vs. La cité de Montréal*, 5. M. L. R., 43.

*Jugé*: Qu'à l'occasion de fêtes ou réjouissances publiques, lorsque la cité de Montréal permet, dans les endroits publics, les feux d'artifice, elle est responsable des accidents qu'ils peuvent occasionner, même dans le cas où ces feux d'artifices sont sous le contrôle d'organisateurs particuliers. *Forget vs. La cité de Montréal*, 4 M. L. R., 77.

*Jugé*: Que la prescription décrétée par la sect. 3 du ch. 85 des S. R. du Canada (art. 4616 des S. R. de la province de Québec) n'est applicable qu'aux actions résultant des accidents causés par le mauvais état des seuls chemins situés dans les limites de la corporation poursuivie, et que, lorsqu'il est constaté que le chemin où un accident est arrivé ne se trouve pas dans les limites de la corporation de la cité ou ville, quand même ce chemin serait entretenu par la corpo-



**795.** Any rate payer may be made liable for any work on a front road or by-road, by a *procès-verbal* or a by-law made under and by virtue of the article 794, in

proportion to the extent of the work done on the road. *See* also article 782.

*Jugé :* Que la cité de Montréal est responsable des dommages résultant à un commerçant de chevaux, du fait que le gouvernement américain, agissant sur l'information que l'officier de santé de la cité de Montréal aurait constaté l'existence d'une maladie de chevaux contagieuse, aurait prohibé l'importation des chevaux canadiens dans les Etats-Unis, lorsqu'il est constaté que le rapport de l'officier de santé de la Cité était erroné. *Kimball vs. La cité de Montréal* 18, R. L. 52.

Poursuite en dommages pour un accident causé par le mauvais état d'un trottoir.

Responsabilité et devoirs des corporations municipales.

L'avis d'action requis par l'article 793 C. M. n'était pas nécessaire dans les circonstances, la défenderesse ayant offert une somme de \$5.00 au demandeur. *Charron vs. La corporation de la paroisse de St-Hubert*. 32 L. C. J., 304.

*Jugé :* 1° Que toute action en dommage contre une corporation municipale, à cause du mauvais état des chemins, est prescrite par trois mois par le S. R. C., ch. 85, s. 3.

2° Que cette prescription est absolue et doit être appliquée quoique non plaidée, mais l'action sera renvoyée sans frais. *Hunter vs. La cité de Montréal*, 12 L. N., 187.

*Jugé :* Que la réclamation pour dommages éprouvés par suite de la négligence de la corporation d'une cité de réparer et entretenir les rues, dans ses limites, se prescrit par trois mois et qu'il n'est pas nécessaire de plaider cette prescription, l'action étant complètement éteinte; seulement si la défenderesse n'invoque pas cette prescription dans sa plaidoirie, elle n'aura pas de frais. *La Corporation de la cité de Québec vs. W. C. Howe*. 19 R. L., 554.

*Held :* That under cap. 85, sect. 3, of the Consolidate Statutes of Canada, the municipality of a city or incorporated village is liable in damages for any accident which occurs through the neglect of such municipality to keep its roads, bridges, etc., in proper repair.

That any action in damages arising from any accident caused by such neglect on the part of such municipality must be instituted within three months from the date of such accident.

That the prescription provided by said statute need not be pleaded, but is a prescription which the court is bound to apply under art. 2188 C. O. *La Corporation de la cité de Sherbrooke vs. Joseph Dufort* 34, L. C. J., 76.

The initiative of repairing or otherwise interfering with the sidewalks in the city of Quebec is, by law (C. S. C. ch. 85, sect. 2 and 3 Rev. Stat. Q. art. 4616; 29 Vic. (Q.) c. 57, s. 11) vested in the city as a part of its control over the streets and there is no obligation on nor even right in the adjoining proprietors to repair such sidewalks.

proportion to the extent of the work done on the road. *See* also article 782.

**795a.** If a municipal corporation is liable for damages on a front road across the property of a proprietor or owner of the road except in cases where obstacles shall be removed by default of a proprietor or owner respecting such action upon request of himself.

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**796.** The Corporation shall be liable for damages caused by such neglect over a public road or place which he has given public notice.—

until notified so to do. Therefore, where a defect is caused by a defect in a warranty given, or that the city alone is responsible for a warranty against such damages. *Andrews, J. Dec.*



proportion to the property he holds or occupies, subject nevertheless to the proviso contained in the article 782.

**795a.** If it concerns a front road of two ranges, the municipal council may pass a by-law to divide such road across for the purpose of maintenance, so that each proprietor or occupant of land shall keep the whole width of the road upon one-half of the breadth of his lot except in cases where the nature of the soil or other obstacles shall render such division unjust; and, in default of agreement between the parties interested respecting such division, the road inspector of the division upon request of one of the parties, makes the division himself. (*R. S. Q., art. 6171*).

## CHAPTER II.

MODE OF DRAWING UP A PROCÈS-VERBAL AND THE ACT OF APPORTIONMENT WHICH RELATES THERETO.

### SECTION I.

#### OF THE PROCÈS-VERBAL.

**796.** The special superintendent having taken the oath as such officer, must convene, hold and preside over a public meeting of the rate-payers interested in the proposed work, on the day and at the hour and place which he has fixed, and whereof he has given public notice.—Every rate-payer, interested and present

until notified so to do by the civic officer charged with such duty. Therefore, where the city being sued in damages for an accident caused by a defective sidewalk, sought to call in the adjoining proprietor in warranty, but failed to allege that the required notice had been given, or that it had been impossible to give the same. *Held*, That the city alone was liable and could not maintain an action in warranty against such proprietor. *Mullins vs. city of Quebec*, Andrews, J. Dec. 29, 1889, 12 L. N., 411.



situation and description of the work to which it relates; — 2. The work to be performed, and the delay within when it must be performed; — 3. The taxable property of the owners or occupants bound to perform work or to contribute to its performance; — 4. The proportion of work to be performed by each rate-payer the nature of the work admits of it, whenever the work must be done by the rate payers themselves; — 5. The person under whose superintendence such work must be executed. (1)

**800.** If a front road is in question, and if all the work upon such road be imposed upon the owners or occupants of the lots fronting on such road, the indication of such lots in the *procès-verbal* is not required.

**801.** If any front road is in question, and that owing to peculiar circumstances the work to be done upon such road, by any owner or occupant, exceeds by more than one-half the average of the work to be done upon the same road by owners of lands of equal value, such owner or occupant may be, in and by the *procès-verbal*, exempted from a part of the work upon or of the cost

(1) *Jugé*: Que l'absence d'indication dans le *procès-verbal* de la personne sous la surveillance de laquelle l'ouvrage doit être exécuté, n'est pas une omission fatale, vu que le chemin étant local, il devait être compris dans un des arrondissements de voirie (art. 555 C. M.), et qu'il se trouvait, par là même, pour son ouverture aussi bien que pour son entretien subséquent, sous la surveillance de l'inspecteur. (Art. 376 et 785 C. M.) *O'Shaughnessy vs. La corporation de Ste-Clothilde de Horton*, 11 Q. L. R., 152.

*Jugé*: Qu'un *procès-verbal* qui décrète qu'un chemin municipal suivra un chemin de fer en allant au nord-est, "jusqu'à l'endroit le plus propice pour le traverser," ne contient pas la situation de l'ouvrage auquel il se rapporte, et qu'il sera déclaré illégal, et que pour cette raison il ne sera pas ordonné, par mandamus, de faire ce chemin. *Bothwell vs. La corporation de Wickham Ouest*. 6 Q. L. R., 45.

*Jugé*: Qu'un *procès-verbal* qui réagit sur le passé en réglant des travaux déjà faits et en faisant contribuer à ces travaux des intéressés qui n'ont pas été appelés par le premier *procès-verbal* qui a ordonné ces dits travaux, est *ultra vires* et nul;

Que ce dit *procès-verbal* est nul en raison de sa rétroactivité, en assujettissant des intéressés à contribuer au coût de travaux déjà faits, tandis qu'ils ne peuvent l'être que pour des travaux à faire. (Arts. 796, 799, 815 C. M.) *La corporation de la paroisse de St-Télesphore vs. Marleau*, V. 30, L. C. J., 249.

of such road; and such parts of the road, described in the *procès-verbal*, is considered as a by-road. Such front road shall not be longer than twice the width of the land of which it is the front road; any excess thereof being considered and maintained as a by-road; and the *procès-verbal* or by-law shall in no case derogate from the provisions of article 825 of this code. (*R. S. Q.*, art. 6172).

**802.** It may be further ordered by any *procès-verbal*:—1. That every bridge or other work forming part of the works upon a road, be constructed of stone, brick or other material, of certain dimensions, and according to plans and specifications annexed to the *procès-verbal*, and which may be amended by the proper council or board of delegates;—2. That fences, hand-rails and other protections be placed at the side of any road where it passes near, or borders upon any precipice, ravine, or other dangerous place;—3. That any part of a road, through a swamp, or wet ground, be made in whole or in part with fascines or pieces of square timber, according to the mode of construction determined upon;—4. That any road be or be not raised in the middle;—5. That any specified kind of materials be or be not used in making or repairing such work;—6. That, if a road pass through uncleared land, the timber on each side of the road be cut down by the owner or occupant of such land, or by the persons bound to perform the road work, for the space of twenty feet from each fence, unless such trees, are fruit trees, or maple or plane trees, forming part of a maple grove or are reserved for ornament to a property:—7. That the work be performable from the date of the coming into force of such *procès-verbal*, without it being necessary to draw up a deed of apportionment;—8. That works of building or repairing be not performed by the rate-payers themselves, but be done by contract at their expense, and that for such purpose they be, after public notice, adjudged publicly at auction to the last and lowest bidder, offering sufficient security for the execution of the same.

**803.** Every *procès-verbal* may, in addition, determine

the general and works of

**804.** The *procès-verbal* of the council delay fixed by article 79

**805.** If the council at the report have formed is with the council, he *verbal* and at the office of the office of the board of delegates question coming county corporations connected the work of the council work was originated to the board (*R. S. Q.*, art. 6172).

**806.** The council may, a *verbal* has been either of the *procès-verbal*, the same; pro

(1) *Jugé*: Que l'assemblée locale le droit de surintendant et la compétence de la juridiction tels *ab initio*. *Brun* *Jugé*: 1<sup>o</sup> Que dans un inspecteur de la police du défendeur 2<sup>o</sup> Que d'après le moyen d'une réclamation locale de l'assemblée municipale. *Corporation* 33 L. C. J., 298.

the general mode of construction or repairing the road and works connected therewith.

**804.** The special superintendent, must deposit the *procès-verbal* and report drawn up by him, in the office of the council by which he was appointed, within the delay fixed by article 794, or by the council in the case of article 795.

**805.** If it appears to the secretary-treasurer of the council at the office of which such *procès-verbal* and report have been deposited, that the work to be performed is work falling within the jurisdiction of another council, he must, without delay, transmit the *procès-verbal* and all the proceedings connected therewith, to the office of the council to which they belong, for examination and homologation by such council, or by the board of delegates, as the case may be. — If the work in question comes under the jurisdiction of more than one county corporation, the *procès-verbal* and proceedings connected therewith must be transmitted to the office of the council of the county municipality in which the work was originally proposed, to be afterwards submitted to the board of delegates of the counties interested. (R. S. Q., art. 6173.) (1)

**806.** The council or the board of delegates concerned may, at any time after the deposit of the *procès-verbal* has been made at the office of the council under either of the two preceding articles, homologate such *procès-verbal*, with or without amendments, or reject the same; provided that public notice has been given

(1) *Jugé*: Que l'article 805 du code municipal ne donne pas au conseil local le droit de faire initier, au moyen de la nomination d'un surintendant et la confection d'un *procès-verbal*, des travaux qui sont de la juridiction du conseil de comté et qui apparaissent être tels *ab initio*. Brunet et al. vs. Brault et al. V. 14 R. L., 692.

*Jugé*: 1<sup>o</sup> Que dans une poursuite en recouvrement d'amende contre un inspecteur de voirie, il faut spécifier en quoi a consisté la négligence du défendeur et quel ordre légitime il a refusé d'exécuter.

2<sup>o</sup> Que d'après l'art. 806 C. M., le conseil de comté ne peut pas, au moyen d'une résolution charger les contribuables d'une municipalité locale de l'obligation de faire des travaux hors de la dite municipalité. Corporation du comté de Champlain vs. J. Levasseur, 33 L. C. J., 298.



by the secretary-treasurer of the council or by the secretary of the board of delegates, to the parties interested, of the time and place at which the examination of such *procès-verbal* is to commence.—Every person interested is entitled to be heard by the council or by the board of delegates, at the time appointed for consideration of such *procès-verbal*. (R. S. Q., 6174). (1)

**807.** The municipal council or the board of delegates in any decision on the merits of a *procès-verbal*, may tax the costs of the proceedings, and cause them to be paid by the parties interested, by the corporation, or by any other person in its discretion.—In the absence of a decision by the council or by the board of delegates, the costs incurred may be recovered from the corporation, under the direction of which the special superintendent acted, saving its recourse against the petitioners who demanded the *procès-verbal*.—In case of refusal, such costs may be recovered in the same manner as penalties imposed by the provisions of this code.

**808.** The secretary-treasurer of the council, or the secretary of the board of delegates, is bound without delay to give public notice of the homologation of any *procès-verbal* made under the provisions of this section.

**809.** Every *procès-verbal* comes into force at the expiration of the fifteen days which follows the public notice given, in virtue of the preceding article, unless an appeal has been taken, in which case the *procès-verbal* comes into force from the date of the final decision of the county council, or of the court before which the appeal has been brought.

**809a.** If works ordered to be performed by a *procès-verbal* or by a by-law in force, become demolished or ruinous, or likely to fall from decay, they may be required or rebuilt under such *procès-verbal* or by-law, by observing the formalities prescribed therein or with

(1) *Held:* That the powers of the county council like those of the local council are only to reject, confirm or amend a *procès-verbal* made by a superintendent. The municipal councils have not the power to take the initiative and to make a *procès-verbal* on the refusal of the superintendent. *Lami vs. Raboin* 1. R. L. 687.

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modifications made by the council, if it has amended such *procès-verbal* or by-law.—The rebuilding or repairing of such work or works can, however, only be ordered by the council on the report of a municipal officer establishing that it is necessary to perform such work. (*R. S. Q.*, art. 6175).

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**810.** Every *procès-verbal* in force may, at any time, be amended or repealed by another *procès-verbal* drawn up in the same manner, on petition by the parties interested or under the order of the council. (*Id.*, art. 6176). (1).

**810a.** Every *procès-verbal* in force may, at any time, be amended by the council by by-law, on petition of one or more interested parties or on the order of the council, provided that public notice be given by the secretary-treasurer of the council or by the secretary of the board of delegates, to the parties interested, of the place where and the time when the examination of the *procès-verbal* shall be begun. (*Id.*, art. 6177). (2)

(1) A county council cannot, by mere resolution without notice, amend or rescind a *procès-verbal* establishing a highway.—*Allen et al. vs. The Corporation of Richmond*, 7 L. N. 63.

*Jugé* : Que l'homologation, le lundi, 3 septembre, d'un *procès-verbal* pour l'ouverture d'un chemin, quand les avis publics informaient les intéressés qu'il serait pris en considération lundi le 6 septembre, est nulle ; et qu'elle est également nulle lorsque sept jours ne se sont pas écoulés entre l'avis public et la réunion du conseil où il a été homologué. *O'Shaughnessy vs. La corporation de Ste-Clothilde de Horton* 11 Q. L. R., 152.

(2) *Held* : That the functions of the municipal councillors are both administrative, legislative and judicial ; and that the decisions given by them in their judicial capacity admit the pleading of final judgment (*chose jugée*).—*Corporation d'Yamaska vs. Durocher*, 30 L. C. Jurist, 216.

*Jugé* : Qu'un *procès-verbal* ne peut être amendé que par un autre *procès-verbal* fait de la même manière. *Holton et Callaghan*. 9 R. L., 665.

*Jugé* : Qu'un *procès-verbal* ne peut être modifié que par un autre *procès-verbal* fait de la même manière, et que tout changement qu'un conseil municipal prétend faire à un *procès-verbal*, au moyen d'une résolution, est absolument nul, et que cette nullité peut être invoquée en tout état de cause. *Holton et Aikins*. 3 R. J. Q., 289.

*Jugé* : Que les dispositions d'un *procès-verbal* d'abord homologué et confirmé, doivent être exécutées et observées longtemps qu'il n'a pas été dument remplacé ou annulé, et que les intéressés

**811.** Any person may be declared liable for work upon any front road or by-road, under any *procès-verbal*, by reason of the taxable property which he owns or occupies, subject to the application of article 782.

**812.** If the *procès-verbal* does not dispense with the making of an act of apportionment, the work required by such *procès-verbal* need not be performed by the rate-payers, until an act of apportionment has been drawn up and comes into force. (1)

**813.** A copy of any *procès-verbal*, homologated by a county council or a board of delegates, must be transmitted without delay to the office of the council of each local municipality, in which the road, governed by such *procès-verbal*, is situated either in whole or in part.

## SECTION II.

### OF THE ACT OF APPORTIONMENT.

**814.** Within the thirty days next, after the coming into force of any *procès-verbal*, the special superintendent must draw up and file at the office of the council,

ne peuvent réclamer un état de chose autre que celui qui découle des dispositions du *procès-verbal*. Lemire et Courchesne. 28 L. C. J., 198.

*Jugé* : Qu'un *procès-verbal* relatif à l'ouverture et à l'entretien d'un chemin peut être amendé par un règlement fait même après la confection des travaux auxquels se rapporte le *procès-verbal*. Roch vs. La corporation de la paroisse de St-Valentin. 18 R. L., 466.

*Jugé* : 1° Que les décisions d'un conseil local ne sont pas celles d'une cour de justice et n'ont pas l'autorité de la chose jugée.

2° Que lorsqu'une requête pour ouvrir un chemin a été renvoyée par un conseil local, le remède que l'on doit adopter pour en appeler de cette décision est celui indiqué par le Code Municipal, et que dans ce cas l'émanation d'un bref de mandamus sera refusée. Suitor et al vs. Corp. de Nelson. 14 Q. L. R., 11.

*Jugé* : Qu'un conseil municipal a le droit de passer un règlement pour rectifier les erreurs et illégalités commises dans un *procès-verbal* lorsque la passation de ce règlement a été précédée, accompagnée et suivie des formalités essentielles voulues en pareil cas (Art. 810a. C. M.) Roch & Corp. d. la paroisse de St-Valentin. 33 L. C. J., 154.

(1) *Held* : That the dispensation in a *procès-verbal* concerning the opening of a road, or making an act of apportionment, must be expressed in every case, and cannot be tacit or understood.—Corporation of Ste-Marguerite vs. Migneron, 29 L. C. Jurist, 227.

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in which the *procès-verbal* is deposited, an act of apportionment of the work to be done under such *procès-verbal*, unless an express provision of the *procès-verbal* dispenses with the same. (1)

**815.** Every act of apportionment must indicate:—

1. The work and the *procès-verbal* to which it relates;—
2. The work to be done;—3. The taxable property, by the owners or occupants of which such work must be executed;—4. The proportion of the work which must be done by each of them;—5. The amount of the contribution which must be given by them in money, labor or materials;—6. The place and time in which, and the officers to whom, such contribution must be delivered.

**816.** If the special superintendent has not drawn up and filed the act of apportionment within the delay prescribed by article 814, the council in the office of which such act should have been filed, may order such special superintendent or any other person to draw up or file the same within the fixed delay.

**816a.** Whenever the council so orders, a new act of apportionment may be made of the works ordered under an old *procès-verbal*, if the repair or rebuilding ordered by such *procès-verbal* is in question. (R. S. Q., art. 6178).

**817.** The act of apportionment comes into force fifteen days after it has been filed in the office of the council, provided that public notice of the filing thereof has been given within such delay.

(1) *Jugé*: Qu'un acte de répartition des travaux à faire, en vertu d'un *procès-verbal*, est nul et illégal, s'il n'a été fait après la confection de ces travaux. La corporation de la paroisse de Ste-Brigide vs. Murray. 14 R. L., 227.

*Held*: That where an act of apportionment has not been filed, as required by M. C., art. 814 within thirty days after the coming into force of the *procès-verbal*, the work can only be executed under a resolution or order of the council.

2° That the road inspector is bound to give seven days' notice before convening a public meeting of those interested to consider the proposed work.

3° That the road inspector has no right to change the mode indicated by the *procès-verbal* in which the work is to be done.

4° That the notices required by law of the making and filing of an act of apportionment cannot be proved by verbal evidence. Tremblay vs. Leblanc, 11 L. N., 162.

**818.** Every act of apportionment is annexed to the *procès-verbal* to which it relates.—In the case of article 813, a copy thereof must be transmitted without delay to the office of the council of each local municipality, in which the road is situated, either in whole or in part.

**819.** The council, in the office whereof an act of apportionment is filed, may amend such act on the petition of any ratepayer or road officer, after having given public notice to the parties interested, of the place, day and hour in which the consideration of the petition and the amendment of the act of apportionment are to be proceeded with, and after having heard any interested party who desires to be heard.—Every amendment to an act of apportionment comes into force fifteen days after the passing thereof, except in the case of an appeal, in which case the act of apportionment comes into force from the date of the final decision of the county council, or of the court before which the appeal has been brought.

**820.** No provision of any act of apportionment can be inconsistent with those of the *procès-verbal* to which it relates.

### SECTION III.

#### GENERAL PROVISIONS.

**821.** The contribution of each person liable for work on roads, in virtue of any *procès-verbal* or act of apportionment, is based upon the value of the taxable property, by reason of which he is liable therefor, or according to the superficial extent of such land, according to the chairman of the municipal council, as fixed by the valuation roll in force, if there is one, and if there is not, then, according to the valuation made by the special superintendent himself, saving the case mentioned in article 783. (As amended by 52 Vict., cap. 54. s. 20.)

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(1) An indictment municipality for non-r which each propriet In such case wh road to be repaired costs will not be aw Queen vs. The Corpo III, Q. L. R., 283.

## CHAPTER III.

OF PERSONS LIABLE FOR WORK ON ROADS IN THE ABSENCE  
OF A PROCÈS-VERBAL OR BY-LAW.

## SECTION I.

## GENERAL PROVISIONS.

**822.** The provisions of this chapter, other than those enacted by art. 825, apply only when there exists no *procès-verbal* or by-law specifying by whom the works on municipal roads are to be performed—(53 V. C. 64. S. 2) (1)

**823.** The burden of proving that any municipal road is not subject to the provisions of this chapter, is always upon the party claiming the exception.

## SECTION II.

## OF FRONT ROADS.

**824.** The front road of each lot is kept in repair by the owner or occupant of such lot.—If a lot is possessed or occupied in portions, by two or more persons, such owners or occupant's are jointly and severally liable for the work to be done on the whole of the front road of such lot, even in the case when the part of the lot possessed or occupied by them does not border upon the road saving their recourse against each other in pro-

(1) An indictment will lie against the corporation of a rural municipality for non-repair of a highway, although it is a front road of which each proprietor is bound to repair his frontage.

In such case where the corporation, after conviction, causes the road to be repaired, a merely nominal fine will be imposed, and costs will not be awarded in favor of the private prosecutor. The *Queen vs. The Corporation of the Parish of St. Sauveur of Quebec*, III, Q. L. R., 283.

portion to the value of the land occupied by each of them. (1)

**825.** No one is bound to keep in order, on one and the same parcel of land, in a depth of thirty arpents, more than one front road governed by the provisions of this chapter.—If there be more than one front road on any piece of land of such depth, to be kept in repair, in accordance with the provisions of this chapter, the council must declare which of such roads is to be kept in repair by the proprietor or occupant of the lot ; and the other front roads are treated as by-roads.—In default of such declaration, the proprietor or occupant is only liable for work upon the road in nearest proximity to his residence. (2)

### SECTION III

#### OF BY-ROADS.

**826.** The work of keeping by-roads, leading from one range to another, in repair is performed by the proprietors or occupants of the taxable property in the range to which such by-roads lead from any older range.

**827.** Repairs to be done on such by-roads are not performed by the labor of the parties bound to maintain the same, but by contribution, in money levied by the road inspector, on the taxable property, by reason whereof such parties are liable for such repairs, by means of an act of apportionment made by such officer,

(1) *Jugé*: Que le propriétaire d'une terre, est personnellement tenu des dommages occasionnés par le mauvais état de son chemin de front. *Goupille vs. La corporation du Canton de Chester Est.* 3 R. L., 3.

(2) *Jugé*: Que lorsqu'un propriétaire, ayant déjà un chemin de front sur sa terre, consent à l'ouverture d'un second chemin sur la même terre, ce chemin est considéré chemin de front et soumis aux dispositions de l'art. 397. *La corporation du village de St-Rose vs. Dubois.* 4 L. N., 334.

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**828.** Every public notice, included between the thirtieth day of April for the month of May and the first of June, offers satisfaction for the work. —The work shall be completed within a period of one year on the same condition. Notice required given either in the case of by-road (6179.)

**829.** All work on ferries or toll bridges, and on the parts of such ferries or toll bridges, shall be done at the expense of the

**830.** The work on the expense of the

**831.** Winter work in accordance with the provisions of the Act of 1882. **832.** Winter work in each year, in the month of December in each year, the road inspector of the county shall issue orders of the county



according to the rule prescribed by article 821, and approved by resolution of the council.

**828.** Every year such work is publicly given out to the lowest tenderer, by the inspector of roads, after public notice, during the month of October for the period included between the first day of November, and the thirtieth day of April inclusively, and in the month of April for the period included between the first day of May and the thirty-first day of October inclusively, who offers satisfactory security for the execution of such work. —The council may, by resolution, order that such work shall be given out by the road inspector for the period of one year, in the same manner and under the same conditions as in the preceding article. —The public notice required by the foregoing paragraphs may be given either in writing or verbally, and applies to the case of by-roads regulated by *procès-verbal*. (R. S. Q., art. 6179.)

**829.** All works on by-roads, leading exclusively to ferries or toll bridges, are made by the owners or occupants of such ferries or toll-bridges.

**830.** The work on any other by-road is done at the expense of the corporation of the municipality.

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## CHAPTER IV.

### OF WINTERS ROADS.

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#### SECTION I.

##### GENERAL PROVISIONS.

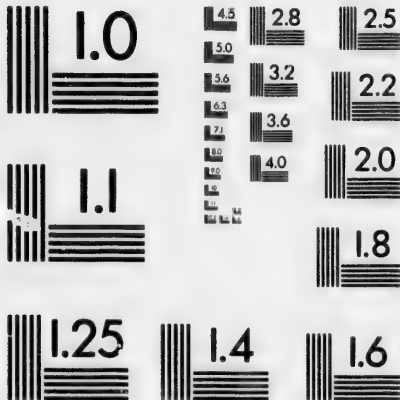
**831.** Winter roads are laid out and kept in repair in accordance with the rules contained in this chapter.

**832.** Winter roads are laid out before the first day of december in each year, in the places fixed by the road inspector of the division, in accordance always with the orders of the council, if the council see fit to give orders



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thereon.—The line thereof is marked by means of balizes of spruce, cedar or other wood, of a least eight feet in height, fixed on the ground at each side of the road, at a distance of not more than thirty-six feet, one from the other on each line; if the road is laid down with two tracks, a row of balizes must be fixed in a similar manner between the two tracks.—Front roads are laid out by the persons who are liable for work on such roads and by-roads by the road inspector of the division.

**833.** The council of every corporation, under the control of which any road whatsoever falls, may, by resolution, order that such road be during the winter laid out and kept in repair as a double road, one track thereof to be for vehicles going in one direction, and the other track for vehicles going in the opposite direction.—In default of an order of the council, under the preceding provision, a double track of twenty-five feet in length, at distances not more than four acres from one another, must be made and maintained on every municipal winter road.

**834.** Every person placing balizes on a summer road, after the road which must be substituted therefor in winter has been laid out beyond the limits of such road, or displacing balizes already placed, incurs a penalty not exceeding eight dollars.

**835.** No winter road, if there is a single track, shall be less than seven feet in width, between the two rows of balizes.—If it is a double road, each track must be at least five feet in width.—It is however lawful for municipal councils to make and enact by-laws providing that winter roads be laid out and maintained at a lesser or greater width than seven feet. (*R. S. Q.*, art. 6180.) (1)

**836.** Every owner or occupant of land, situated

(1) *Held*: That a municipality shall be held responsible for the damages caused within its limits, by reason of the violation of art. 835 M. C., which requires that a winter road be at least seven feet wide between the two rows of balizes.—*Corporation de St-Christophe d'Arthabaska & Beaudette*, V. Q. L. R., 316.

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upon any front road, and all the persons interested in by-roads must, unless it is otherwise provided for by the local council in virtue of article 541, or unless they have been exempted from doing so by the road inspector or the council, between the first day of December in each year and the first day of April following, keep all the fences erected by the side of such road or by-road and all the fences forming an angle with those along the road or by-road to a distance of twenty-five feet, levelled to within twenty-four inches of the ground.—This provision does not apply to hedges, upright posts, fences more than twenty-five feet distant from the road, nor to those which cannot be taken down or rebuilt without great expense, nor to fences erected in the woods, or within the limits of a village, whether it be or be not constituted into a separate municipality.—Nevertheless the owners or occupants of land who maintain the fences along any front road not being that on which they are obliged to work, must pay to the person bound to maintain such road, the excess of work occasioned by the fact that, as such fence cannot be taken down, the person liable for the work on such road has additionnal labor. (*R. S. Q.*, art. 6181.)

**837.** Every council may, by resolution, give such orders as it deems proper, respecting the maintenance of winter roads, which are under its control. These orders are binding upon the officers of the council, and upon all parties interested in the work upon the road to which they relate.

**838.** Winter roads, laid out on the same lines as the summer roads, are at the expense of the same persons or corporations as in summer.

**839.** If any by-road, leading solely to any ferry or pay bridge, the road work of which is at the charge of the owner or occupant of such ferry or pay bridge, serve in winter as a passage to any other public road, the work of maintaining such by-road or the road which is substituted therefor, is not, during the winter, at the costs and charges of such owner or occupant, but is performed in the same manner as that of any other by-road.

## SECTION II

OF WINTER ROADS WHICH REPLACE MUNICIPALITIES  
SUMMER ROADS.

**840.** Winter roads on land may be laid out beyond their lines in summer, and across any field, enclosure or land in standing timber.—If the proprietor of such land suffers damage, he shall be indemnified therefor by the council of the municipality, provided the council and the proprietor come to an understanding thereon; if they do not, the council has the damage assessed by the municipal valuers, the council reserving however its recourse against all parties interested in the road for the repayment of the moneys so expended.—These roads cannot however, be laid out through gardens, orchards, yards or other lands enclosed within quickset hedges, or fences which cannot be taken down or replaced without incurring heavy expenses, unless the consent of the proprietor or occupant be obtained.—The municipal council may make by-laws for the purpose of allowing the opening of winter roads across all fields or through all woods, for hauling logs, square timber or cord-wood, provided it be done without causing damage and by complying with the restrictions contained in this article. (*R. S. Q.*, art. 6182).

**841.** Winter roads which are substituted for municipal summer roads, are kept in repair, either by those who in summer are liable for work upon the roads for which the former are substituted, or by the corporation itself, when such roads are maintained at its expense except in the case of article 839.

## SECTION III.

## OF WINTER ROADS ON RIVERS.

**842.** The corporation of every local municipality, situated on the banks of a river or any other piece of water, which separates, in front, such municipality or

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a part of such municipality from another, is bound to lay out and maintain during the winter, over half such river or piece of water, for the purpose of connecting the two municipalities, any road demanded by the council of one of such municipalities.

**842a.** The corporation of every local municipality situated on the river St. Lawrence, is bound to lay out and maintain during the winter, within its limits and over half of the piece of water separating such municipality or a portion thereof from another or from another local municipality, city or town municipality, for the purpose of connecting such local municipality with another local municipality or with a city or town municipality, or of connecting two city or town municipalities situated on the bank of such river, every road required by the council of one of such local municipalities or by one of such city or town municipalities; and on the refusal or neglect of the council of such local municipality, the road may be laid out, made and maintained by the corporation of the local, city or town municipality demanding the same, at the expense and on the responsibility of the corporation in default. (*R. S. Q.*, art. 6183).

**843.** On the refusal or neglect of the council of the neighboring municipality, the road may be laid out, made and maintained by the corporation demanding the same, at the expense and on the responsibility of the corporation in default.

**844.** Any road laid out and maintained upon the ice, under article 842, may be continued at the expense of the corporation, liable for such road work, across any field or land in standing timber, except through orchards, yards and grounds enclosed by wall or hedge, to connect the road or the river or other piece of water with any other public road in the vicinity. — Every person who, for the purpose of obtaining a supply of ice, makes an opening or a hole in the ice of a river upon which a public road is traced, shall surround such opening or hole by means of a fence or barrier sufficient to prevent any accident, under penalty of a fine of not

less than five or more than fifty dollars, without prejudice to the recourse in damages of any person injured thereby. (*R. S. Q.*, art. 6184).

**845.** Such roads are laid out as soon as the ice is sufficiently strong, under the direction of the inspectors of roads or other special officers of the two councils interested.

**846.** Expenses incurred in laying out and maintaining any winter road upon the river St. Lawrence, the Ottawa river, the river Milles Isles, the Chambly river, and the river des Prairies, by the corporations of the country or village municipalities, situated on the banks of such rivers, are repaid them by the corporation of the county municipality upon presentation of a statement of such expenses, certified by the mayor or secretary-treasurer of the local council, saving the case when such expenses must be reimbursed by town or city municipalities, in virtue of the following article.

**847.** The corporation of any town or city municipality, situate on the banks of the river St. Lawrence, is bound to reimburse the expenditure incurred in laying out and maintaining every winter road upon such river, which terminates within a radius of two miles from the limits of such municipality, to the corporation of the neighboring local municipality on the same bank which has incurred them.—If such road passes through a local municipality and is made for the purpose of connecting two town or city municipalities so situated on opposite banks of the river St. Lawrence, the corporations of such town or city municipalities so situated on opposite banks of the river St. Lawrence, are bound to reimburse, to the corporation of the municipality, through which such road passes, the expenditure incurred in laying out and maintaining the whole of such winter road, each paying a share in proportion to the respective amount of the valuation of the property as established by the municipal valuation roll. (*R. S. Q.*, art. 6185).

**847a.** The corporation of the municipality of the county of Maskinongé is solely responsible for damage

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resulting from the improper maintenance of the winter roads, on the river St. Lawrence, by the rural and village municipalities included in such county municipality. (*Id.*, art. 6186).

**848.** The provisions of articles 842, 843, 844, 845, 846 and 847 do not apply to roads on rivers or other pieces of water, which are substituted for summer roads.

**849.** Corporations are not responsible for accidents or damages occasioned by the breaking of the ice, on roads laid out and maintained by them, on rivers or other pieces of water.

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## TITLE IV.

### OF MUNICIPAL BRIDGES.

**850.** All public bridges, of eight feet span or more, save and except those referred to in article 883, and those governed by special acts, or possessed by iron or wooden railway companies, or by the imperial, federal or provincial governments, are under the control of municipal corporations and are made and maintained in accordance with the provisions of this title.

**851.** All bridges, situated either upon front roads or by-roads, are either local bridges or county bridges. — Local bridges are those which are wholly situate in one and the same local municipality — County bridges are those which lie between two local municipalities. If any bridge lies between two local municipalities which form part of two county municipalities, it is the bridge of the two county municipalities.

**852.** Municipal bridges, known at the time of the coming into force of this code as local bridges or county bridges, continue to be so known and to be governed as such, until otherwise provided under the authority of this code.

**853.** Every municipal bridge must have hand-rails or other sufficient protection ; it must be at least fourteen

feet in breadth between such hand-rails, and must be constructed of materials fastened or bound together in such a manner as to prevent all accidents.

**854.** Every municipal bridge must be kept in good order in the manner required by law, and by the by-laws or *procès-verbaux* concerning it.

**855.** A by-law or a *procès-verbal* to regulate the work of constructing, improving or maintaining any municipal bridge may be drawn up, in the manner prescribed by article 794, either upon the petition of any person interested in such work, or upon the order of the municipal council, after the passing of a by-law or resolution in relation to any bridge, in virtue of article 526 or 527.—All the provisions of the second chapter of the preceding title respecting the manner of drawing up, amending or repealing a *procès-verbal* of a road, and the act of apportionment relating thereto apply to *procès-verbaux* to be drawn up, or already drawn up, respecting municipal bridges, in so far as they are consistent with the provisions of this title and the nature of the work to be performed upon such bridges. (1)

**856.** In the absence of *procès-verbaux* or of by-laws respecting them, the work of constructing, improving or maintaining bridges situated on a front road, is performed at the cost of all the proprietors or occupants of the taxable property comprised in the range in which is such front road, and the work upon bridges situated upon by-roads is at the costs of persons liable for such work on such by roads.—The work of constructing or improving such bridges is in such case performed by contract, given out in the manner prescribed in the seventh title of this book, and the repairs are performed according to the rules laid down in articles 827 and 828.

**857.** Municipal bridges are made or maintained by

(1) *Held:* That a municipal by-law made by a local council ordering that the bridges on a road be made by all the proprietors of the lands who drain thereby, can be annulled as illegal, if the proprietors and the lands are of several local municipalities, because this road is a county road and falls under the jurisdiction of the county council.—*Goulet vs. Corporation of Ste-Marthe*, 29 L. C. 107.

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the corporation of the local municipality in which they are situated, if any by-law has been passed by the council of such municipality, in virtue of article 535, with reference to bridges.

**858.** Articles 757, 758, 759, 760, 761, 762, 769, 780, 781, 782, 785, 786, 787, 789, 790, 791 and 793 apply also, *mutadis mutandis*, to municipal bridges.

**859.** Any person driving any vehicle faster than a walk, over any bridge exceeding twenty feet in length, unless such bridge is wholly constructed of stone, brick or earth; or cutting, defacing or injuring any part of any bridge, or of the posts, or of any other object forming part of a bridge or belonging thereto, incurs a penalty of not less than two nor more than twenty dollars, in addition to the damages caused.

**859a.** When a municipality has decided to construct an iron bridge under the direction of the Government the council of such municipality may insert, in a by-law that the abutments and bridge shall be built under the control of the government and of its officers or homologate a *procès-verbal* containing such provisions. The foregoing provision applies to every bridge, the construction whereof is already ordered whether the work be commenced or not. (53 V. c. 63, s. 9.)

## TITLE V.

### OF FERRIES.

**860.** All ferries on any river, or other piece of water, are under the control of the corporation of the local municipality, within the limits of which is situated such river or piece of water.

**861.** If a river, stream or other piece of water separates one local municipality from another, the ferry is under the joint control of the corporations of the two local municipalities adjoining such river, stream or piece of water.

**862.** No person can carry on the occupation or trade of a ferryman without a license to that effect; and any one so acting without a license, or beyond the limits assigned by his license, incurs a penalty not exceeding four dollars for each person or thing ferried over by him.

**863.** In the case of article 861 the license is given by the councils of the two municipalities interested, in conformity with the by-laws in force for that end, or if such councils do not agree, by the lieutenant governor, in conformity with the by laws made under articles 549 and 550, and approved by him.

**864.** The moneys arising from any license granted by the lieutenant-governor belong in equal shares to the corporations of the two municipalities interested.

**865.** Neither the local council nor the lieutenant-governor can grant any license to keep a ferry within the limits, for which an exclusive privilege has been conferred by any law on the proprietor of a toll bridge.

**866.** Ferries between the parish of Notre Dame de la Victoire and the city of Quebec, between the parish of Longueuil and the city of Montreal, between Montreal and Laprairie, and between Lachine and Caughnawaga, are not governed according to the provisions of this code.

## TITLE VI.

### ON MUNICIPAL WATER-COURSES.

**867.** All water-courses draining several pieces of land with the exception of boundary ditches, which drain only the two properties between which they are situated, and of road ditches, are regulated according to the provisions of this title.

**868.** Every river or natural water course, in the parts thereof, which are neither navigable nor floatable is a municipal water-course within the meaning of the provisions of this title.—A river or natural water-course,

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occupation or which is only flottable at certain period of the year or at effect; and after rains, does not cease to be a municipal water-course. (1)

**869.** Municipal water-courses are either local water-courses or county water courses.—Water-courses situated wholly in one local municipality are local water-courses.—Those which divide two local municipalities, or which pass through more than one local municipality, are county water-courses. If a water-course divides or passes through local municipalities forming part of several county municipalities it is the water-course of all such county municipalities. (2)

**870.** The work of constructing, improving or maintaining any municipal water-course is performed by the persons interested, who are liable therefor under any by-law, *procès-verbal* or act of agreement, or under the following article, or by the corporation, if a by law has been passed in virtue of article 475.

(1) *Held:* That when works on a water-course are to be done in common, and that one of the persons bound refuses to work, an apportionment must be made establishing each one share.—*Sévigny vs. Doucet*, 6 R. L. 40.

(2) *Held:* That there is nothing in the law to oblige a land owner to contribute to the works of a water course by the sole fact of being in the neighbourhood. He is bound to such works only under the three following conditions: 1. That his land be drained by this water-course; 2. By reason of his land drained; 3. In the proportion established by the special superintendent, *i. e.*, in the *procès-verbal*.—*Corporation of Berthier vs. Guèvremont*, 29 L. C. J. 223.

*Jugé:* 1<sup>o</sup> Qu'un cours d'eau qui traverse deux municipalités locales est un cours d'eau de comté, placé par la loi sous la juridiction originelle du conseil de comté;

2<sup>o</sup> Qu'un conseil de comté qui rend une décision relativement à un *procès-verbal* au sujet d'un pareil cours d'eau n'exerce pas une fonction judiciaire, mais simplement administrative;

3<sup>o</sup> Que bien que le code municipal (art. 100) donne un recours devant la Cour de Circuit et devant la Cour de Magistrat pour la cassation de tout *procès-verbal*, rôle, résolution, etc., néanmoins la Cour Supérieure ne cesse pas d'avoir juridiction en ce cas, vu le contrôle qu'elle possède sur toute corporation ou corps politique;

4<sup>o</sup> Que dans tous *procès-verbaux* réglant les cours d'eau, tous les propriétaires intéressés doivent être assujettis aux travaux nécessaires dans la proportion de leur terrain égoutté; que dans le cas contraire, tout contribuable a droit de se plaindre. *Barbeau vs. La corporation du comté de Laprairie*. 5 M. L. R., 84.

**871.** In the absence of a by-law, of an act of agreement, or of a *procès-verbal*, the work on a municipal water-course is performed by the owner or occupant of each piece of land through which such water-course passes. If a water-course passes between two pieces of land it is at the joint cost of the owners or occupants of the same.—Nevertheless, in the case of article 882, and in the absence of a by-law, act of agreement, or *procès-verbal*, the work is at the cost of the owners or occupants of the low and swampy lands drained by the water course. (1)

(1) *Jugé* : Que le propriétaire le long d'une rivière navigable, n'a pas droit de servitude pour un passage libre à telle rivière. *Starnes et Molson*. 29 L. C. J., 278.

*Jugé* : Que le propriétaire riverain n'a pas le droit d'obstruer le passage sur une rivière flottable. Qu'une rivière flottable, seulement à certaines saisons de l'année, et assujettie aux lois générales concernant les rivières flottables. *Bourque vs. Farwell et al.* 3 R. L., 700.

*Jugé* : Que le propriétaire d'un moulin que fait marcher les eaux d'une rivière non flottable a une action pour les dommages que lui cause la retenue des eaux, par écluses, pour les besoins d'un moulin de construction plus récente, en amont de la rivière. *Proulx vs. Tremblay*. 5 L. N. 135 ; 7 Q. L. R., 353.

*Jugé* : Que le statut qui permet l'exploitation des cours d'eau en y construisant des écluses, crée une servitude légale sur les terres sur lesquelles ces écluses font refluer les eaux ; que la prescription de deux ans ne peut pas être opposée à la demande de l'indemnité ; que cette demande doit être poursuivie devant les tribunaux ordinaires ; que l'expertise mentionnée dans le statut n'est pas possible que du consentement des deux parties et qu'elle n'a aucune autorité judiciaire ; que l'indemnité étant le prix de la servitude, est due par celui qui l'a exercée, et que la vente subséquente du moulin et des écluses ne décharge pas celui qui les a construits de l'obligation de payer. *Breakey vs. Carter et al.* 7 Q. L. R., 286.

*Jugé* : Qu'il n'est pas permis de mettre des embarras dans une rivière navigable, et que celui qui en met sera condamné aux dommages. *Stein vs. Seath* 1 R. C., 482.

*Jugé* : Que personne n'a le droit d'amarrer une cage sur le fleuve St-Laurent, en face de la résidence du propriétaire riverain, et à proximité d'icelle et de l'y laisser amarrée pendant plus de deux mois contre la volonté du riverain, et sans que cela soit nécessaire pour se servir du fleuve St-Laurent, pour les fins de la navigation et du transport de leur bois et de causer ainsi des inconvénients au propriétaire qui ne sont pas communs au public en général. *Dunning et al.* et *Girouard et al.* 9 R. L., 177.

*Jugé* : Que le Statut du Canada, 19-20 V., c. 104, qui permet aux propriétaires l'exploitation des cours d'eau sur leur terre pour y construire des moulins et des écluses, crée une servitude légale sur

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**872.** Work upon municipal water-courses is performed in the manner laid down by the provisions of this code and by the acts of agreement, *procès-verbaux* or by-laws, as the case may be, which regulate such water-courses.

**873.** All the work ordered to be done on any county or local municipal water-course is performed under the superintendence and control of the rural inspector of the division through which such water-course flows, or of a special officer appointed for that purpose by the council or board of delegates, who have the control of such water-course.—Such special officer is invested with the same powers, subject to the same obligations and liable to the same penalties in relation to the water-course for which he has been appointed as the rural ins-

les terres voisines sur lesquelles les écluses font refluer les eaux ; que ces propriétaires n'ont dû qu'à une indemnité, et qu'ils ne peuvent obtenir la démolition des travaux que si l'indemnité ou compensation n'a pas été payée ; que cette exploitation ne constituant ni un délit ni un quasi-délit, la prescription de deux ans ne s'applique pas à la réclamation pour indemnité, et il n'y a pas solidarité entre les propriétaires des différentes constructions qui causent les dommages, chacun n'y est tenu que pour la part à laquelle contribuent ses ouvrages ; que le mode nouveau et spécial donné par le statut pour constater et déterminer l'indemnité, n'a pas ôté ceux du droit commun qui ne pouvaient être abrogés que par une disposition expresse. *Jean vs. Gauthier.* 5 Q. L. R., 138.

*Jugé :* Que lorsqu'une personne se plaint que le cours d'eau d'un ruisseau, passant à travers son terrain, a été obstrué par l'action du propriétaire du terrain inférieur et que, par la contestation, on prétend que le demandeur, par ses travaux, a altéré le cours naturel du ruisseau, c'est à lui à prouver, afin de lui donner droit à des dommages, que la servitude, telle qu'elle existait avant le changement fait par lui-même, a été altéré par le propriétaire du terrain inférieur. *Fréchette et la compagnie Manufacturière de St-Hyacinthe.* 28 L. C. J., 202.

*Jugé :* Que par le chapitre 51 des S. R. B. C., un propriétaire a le droit d'utiliser une rivière traversant son immeuble et celui de son voisin, en y construisant chez lui des moulins et chaussées et les vendre ensuite à un tiers qui, lui aussi, a encore le droit de les exploiter ; que, si ces chaussées ont causé, par leur trop grande élévation, des dommages au voisin, il doit les faire constater par des experts nommés par lui et le propriétaire de la chaussée, et qu'à défaut par l'un d'eux d'en nommer, par l'un des experts de la municipalité à être désigné par le préfet du comté, lesquels experts, en évaluant ces dommages et fixant une indemnité, peuvent, s'il y a lieu, établir la compensa-

pector.—If such special officer is selected from among the persons interested in the work to be performed on such water-course, he shall not be entitled to any fee for his services or loss of time, from the parties interested, but he may be paid by the council who appointed him. (*R. S. Q.*, art. 6187.)

**874.** The work of opening a municipal water-course cannot, however, be superintended by a rural inspector, who is personally interested in the work to be performed on such water-course.

**875.** Municipal water-courses must be kept in good order and free from all obstructions, which prevent or impede the water from flowing, for the whole period between the first day of June and the thirty-first day of October following.

tion en tout ou en partie, avec la plus-value qui peut résulter à l'immeuble du voisin par l'établissement de ces moulins; que cela fait, et à défaut des paiements de ces dommages ainsi constatés et fixés, dans les six mois de la date du rapport des experts, avec l'intérêt, légal, à compter de la dite date, le voisin a alors le droit de poursuivre pour le recouvrement du montant déjà fixé de ses dommages avec intérêt, et pour faire démolir la chaussée ou se faire autoriser à la démolir aux frais et dépens du propriétaire; que le voisin n'a pas droit d'action contre le propriétaire pour faire constater s'il a ou non souffert des dommages, et s'il y en a, à combien ils se montent, attendu que l'acte sus-mentionné prescrit un mode différent de le faire, et qu'il ne peut demander la démolition de la chaussée qu'en autant qu'il aura été constaté par des experts qu'il a droit à des dommages, que ces dommages auront été évalués, et qu'ils n'auront pas été payés, avec l'intérêt légal, dans les six mois de la date du rapport des experts. *Blais vs. Auger*. 3 L. N., 199.

*Jugé*: Que le défendeur en faisant un canal qui a changé le cours d'un ruisseau passant à travers son terrain et l'a fait passer à travers le terrain du demandeur où il n'a jamais passé auparavant, a constitué une servitude illégale sur la propriété du demandeur, par ce changement de cours d'eau. *Maguire vs. Donovan*. 10 R. J. Q., 267.

*Jugé* Qu'il n'y a pas lieu à une action en complainte ou négatoire au cas de l'écoulement naturel des eaux, même augmenté en volume par la culture d'un héritage supérieur à un héritage inférieur. *Fournier et Hall*. 11 Q. L. R., 15.

*Jugé*: Que celui dont la propriété borde une eau courante ne faisant pas partie du domaine public, peut utiliser et exploiter cette eau en y construisant une chaussée d'une hauteur suffisante pour faire marcher le moulin qu'il a construit sur sa propriété; que le propriétaire d'un moulin supérieur auquel ces travaux nuisent en y faisant refluer les eaux, ne peut demander qu'une indemnité et n'a

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**876.** The rural inspector of every rural division must, between the first and fifteenth days of the month of June in each year, and thereafter until the month of November following, whenever required so to do by the council, or by the board of delegates or by any person interested, visit and examine the water-courses under his superintendence, and provide that the necessary work, for the maintenance of the same, be executed without delay, in conformity with the provisions of the law, and of the *procès verbaux*, acts of agreement or by-laws, which prescribed such work.

**877.** No person is bound to perform such work upon any municipal water-course between the first day of November in each year and the thirty-first day of the month of May following, both days inclusive, except on the order of the inspector when such water-course is

droit à la démolition des travaux qu'à défaut du paiement de l'indemnité. Demers et Germain. 14 R. L., 369.

*Jugé:* Que lorsqu'un cours d'eau établi, par un procès-verbal, a pour effet d'aggraver considérablement la servitude d'un terrain, le propriétaire de tel terrain peut demander l'annulation de ce procès-verbal, après même que celui-ci a été approuvé par le conseil de comté. La corporation de la paroisse de Ste-Anne du Bout de l'Isle et Reburn. 1 M. L. R., (B. R.) 200.

*Jugé:* Que les rivières navigables et flottables appartiennent au domaine public, et comme telles, ne peuvent servir à un usage privé, de manière à gêner l'usage public; que personne n'a le droit de faire des constructions sur icelles, sans l'autorisation de l'autorité compétente; que même lorsqu'elles sont faites sur autorisation légale, elles ne doivent pas gêner la navigation ou le flottage; que telles constructions ne sont permises, de droit, que sur des cours d'eau qui ne sont pas navigables et flottables. Béliveau et al., *vs.* Levasseur et *vir.* 1. R. L., 720.

*Jugé:* Que pour maintenir une action en dommage contre celui qui construit avec la permission de la Législature un pont sur une rivière en Canada, le propriétaire riverain doit prouver que cette construction gêne l'accès à sa propriété, et que, d'après la loi en Canada, il est nécessaire pour réussir sur son action que le demandeur prouve des dommages actuels et spéciaux. Bell *vs.* La corporation de la cité de Québec. 7 Q. L. R., 103.

Dans la cause de McGillivray et McLaren et al., 5 L. N., p. 199, il a été jugé que des dommages causés par la construction de chaussées dans un cours d'eau pour son exploitation, peuvent être réclamés de la manière ordinaire sans qu'il soit nécessaire d'avoir recours à l'expertise mentionnée dans le chap. 51 des S. R. B. C., intitulé, "Acte concernant l'amélioration des cours d'eau."

obstructed by snow or ice or otherwise. (*R. S. Q.*, art. 6188.) (1)

**877a.** The council may by resolution duly published alter the dates mentioned in articles 875, 876, 877. (53. V., c. 63, s. 10.)

**877b.** In cases where the work is not done by the labor of the rate payers, the inspector or special officer shall, at the time when the water course should be open and clear, whenever he is required so to do, remove or cause to be removed the obstructions caused by snow or ice or otherwise; and the cost of such work is paid by the interested parties mentioned in the *procès verbal*. (53. V., c. 63, s. 10.)

**878.** Articles 757, 758, 759, 760, 761, 762, 780, 781, 782, 786, 787, 789, 790 and 791, respecting municipal roads apply, *mutatis mutandis*, to municipal water-courses.—Article 893 applies also to municipal water-courses, except, however those on which the work is regulated by act of agreement.—Works of improvement or maintenance on every municipal water-course of the nature of those above mentioned, can be regulated by *procès-verbal* or by-law, and made by the owners of lands drained either by such river or natural water-course, or its tributaries (*R. S. Q.*, art. 6189).

**879.** Whoever obstructs any municipal water-course, or allows it to be obstructed in any manner, incurs, over and above the damage occasioned, a penalty not exceeding one dollar for every day such obstruction remains, at the expiration of two days, from verbal or written notice given by or on behalf of any person interested, having for object the removal of such obstruction.

**880.** No municipal council or board of delegates can, by itself or by its officers, direct the demolition of any dam, dyke, or flood-gate of any mill or factory what-

(1) *Jugé*: Que le surintendant spécial doit, dans son *procès-verbal* faire mention de l'étendue de terrain égoutté par le cours d'eau afin de déterminer et établir la proportion des travaux des intéressés ou du coût de tels travaux ainsi ordonnées par ce *procès-verbal*. *Laviolette vs. La corporation du comté de Napierville*, 31 L. C. J., 216.

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soever, on the ground that such dam, dyke or flood-gate is an obstruction to a water-course.

**881.** No person is in any manner bound to make or to assist in making through his own land, a water-course of any depth greater than that which is necessary for draining such land.

**882.** The owner or occupant of any low and swampy land may make a water-course through any neighboring land, or avail himself of those which are already made, deepen the same if they are not deep enough, and repair and keep them in order, in so far as necessary for the drainage of such low and swampy land.—The work to be done on such water-course may be regulated by by-laws, *procès-verbaux* or by act of agreement.

**883.** The rural inspector of the division may authorize the opening of any trench or excavation in any public road to enable a water-course to pass through the same. — Such trench or excavation must be indicated, both by day and night, in such a manner as to prevent all accident, under a penalty for the damage occasioned. Within the forty-eight hours next after the commencement of the work upon the road, a suitable and solid bridge of the width of the road must be built over such water-course. This bridge continues to form part of the water-course.

**884.** Any municipal council, by resolution to that effect or on the petition of one or more persons interested in the opening, closing, division, construction, or maintenance of any water-course which is or ought to be under its control, requiring that the work to be done on such water course be regulated or determined, or that the same be closed, must without delay:—1. Call together at one of its sittings, by public notice, the rate-payers interested in the projected work, and if, after hearing them, the council is of opinion that such work should be performed, make a by-law to settle, determine, and apportion the work on such water-course, or—2. Appoint a special superintendent, with instructions to visit the places mentioned in the resolution or petition, to report to the council, and to draw up a *procès-verbal*, if there

is occasion to do so, within the thirty days next after his appointment, or within the delay fixed by the council. (R. S. Q., art. 6190). (1)

**885.** All the provisions of the second chapter of the third title of this book, respecting the manner of making, amending or repealing any *procès-verbal* of a road and the act of apportionment connected therewith, apply to *procès-verbaux*, to be made or already made respecting municipal water-courses, in so far as such provisions are consistent with those of this title and with the nature of the work to be performed upon the water courses.

**886.** The waters of any municipal water-course may be turned into any other municipal course, if it is so ordered by a *procès-verbal* or by-law, as the case may be, without such two water-courses being deemed to be a single water-course from the fact of their junction.

**887.** Any proprietor or occupant whose land is drained by any water-course, may be made liable for the work on such water-course, in virtue of a *procès-verbal*, or of a by-law made under article 884, for and by reason of the extent of his land so drained, in the proportion established by the special superintendent, the council or the board of delegates, as the case may be; but should an error of not more than ten per cent, of the whole of the land so drained be made, such error is not to be taken into account (2).

(1) *Jugé*: Qu'une corporation municipale par son conseil a bien le pouvoir de faire un *procès-verbal* pour un cours d'eau qui intéresse plusieurs personnes dont les propriétés sont situées sous sa juridiction, mais que ces pouvoirs doivent être exercés suivant la loi et non en contravention à la loi, et qu'elle doit observer les formalités prescrites pour la protection des intéressés; qu'un conseil municipal agit contrairement à la loi, en faisant un *procès-verbal* qui amène sur le fond inférieur, des eaux qui ne s'y rendaient pas sans l'œuvre de la main de l'homme qui a contribué à les y amener; le conseil municipal, par tel *procès-verbal*, rendant plus grave la servitude de fond inférieur à travailler à ce cours d'eau, qui n'est pas requis pour écouler sa propriété. *Reburn vs. La corporation de la paroisse de Ste-Anne du Bout de l'Ile*. 11 R. L., 133, 1, M. L. R., (B. R.,) 200.

(2) *Held*:—That there is nothing in the law to oblige a land-owner to contribute to the works of a water-course by the sole fact of being in the neighbourhood. He is bound to such works only under

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**888.** The persons interested in any municipal water-course, whether the same is governed by a by-law, by a *procès-verbal*, or in virtue of article 871, may by an act of agreement approved by the council or the board of delegates, who have the control of such water-course determine the work to be done thereon, the manner in which it shall be done, and what persons among themselves shall do the same.

**889.** The act of agreement takes *de jure* the place of the *procès-verbal* or of the by-law which regulates such water-course, if there is one, and is obligatory upon all who became parties to the same, and upon their representatives, or until it is replaced by a subsequent *procès-verbal* or by-law, under the same penalties as if the water-course was regulated by a *procès-verbal*.

**890.** A copy of every act of agreement must be deposited in the office of the council of every local municipality in which is situated, either in whole or in part, the water-course regulated by such act.

**891.** Any person may use any municipal water-course as well as the banks thereof, for the conveyance of all kinds of timber or wood, and for the passage of all boats, ferry-boats and canoes, subject always to the charge of repairing, without delay, all fences, drains or ditches damaged thereby, and to the payment of all damages resulting from the exercise of such right.

## TITLE VII.

### OF OTHER PUBLIC WORKS OF MUNICIPAL CORPORATIONS.

**892.** All public works of county or local municipal corporations, the execution of which is not specially regulated by the provisions of this code, are made, at the expense of the corporation which orders them, by

the three following conditions: 1. That his land be drained by this water-course; 2. By reason of his land drained; 3. In the proportion established by the special superintendent, *s. e.*, in the *procès-verbal*.—Corporation of Berthier *vs.* Guévremont, 29 L. C. J., 223.

contract awarded and passed according to the rules laid down in this title. (1)

**893.** On resolution of the council to that effect, public notice is given, specifying summarily, the works to be made, the details prescribed by the council, and the time during which orders therefor may be sent in.

**894.** The contract for such works must be awarded by resolution of the council.

**895.** The contract is made in the name of the corporation and accepted by the head of the council, or by a person specially authorized for that purpose by the council. (2)

**896.** The person to whom such work is adjudged must give security to the satisfaction of the council for the due performance of such work, and for the payment of all damages, costs and interest, in the event of his not fulfilling the contract.

**897.** Whenever work is under the direction of the county delegates the notice is published, and the contract awarded and entered into, according to instructions from the board of delegates, by the council of the county municipality which originally proposed the work in question.

**898.** The contract is binding on every municipal corporation interested in the work to which it relates.

(1) *Jugé* : Que, lorsque par un règlement d'un conseil municipal de comté, un comité a été nommé afin d'acquérir pour le conseil un terrain pour construire une bâtisse pour le bureau d'enregistrement et pour une cour de justice, ce comité excèdera ses pouvoirs s'il donne un contrat pour la construction d'une bâtisse devant servir comme bureau d'enregistrement, comme cour de justice, et aussi comme salle publique pour l'usage de la paroisse où elle est construite, quoique le coût de la bâtisse n'excède pas la limite déterminée par le règlement, et que l'entrepreneur n'aura pas d'action contre la corporation, sur tel contrat, cette dernière l'ayant notifié qu'elle ne serait pas responsable des travaux faits sous tel contrat. Four nier dit Préfontaine vs. La corporation du comté de Chambly 14 L. C. J., 295.

(2) *Jugé* : Qu'une corporation municipale qui, par l'entremise de son conseil, se serait engagée à donner un contrat à une société n'est pas tenue de donner ce contrat à un tiers que cette société s'est substituée, sans le consentement de la corporation. *St. James vs. La corporation de St-Gabriel*, 12 R. L., 15.

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**899.** The council with whom the contract has been made may, in the name of the corporation which it represents, sue to enforce performance thereof before any competent court.

**900.** The other municipal corporations, interested in the work to which such contract relates, may bring a similar action, but only after having given the council which entered into the contract a special notice of fifteen days, requiring such council to institute such action.

**901.** The council or the board of delegates, under whose direction such contract is performed, may order any road inspector of the division, in which such work is being done, to superintend its execution.

## TITLE VIII.

### EXPROPRIATION FOR MUNICIPAL PURPOSES.

**902.** Every municipal council may, in complying with the provisions of this title, appropriate any land required for the execution of work ordered by any by-law, *procès-verbal* or other resolution within the scope of its jurisdiction. (1)

(1) The formalities prescribed by the statute for the opening of a road and for the expropriation of the property of individuals must be rigorously followed and are *à peine du nullité*.

A municipality failing to observe such formalities will be condemned to restore the land expropriated, and to pay damages, notwithstanding that the neglected formalities have been observed after action brought.

The right of a corporation to enter upon expropriated property depends upon the *prior* evaluation. The corporation of the Township of Nelson *vs.* Lemieux, 11 Q. L. R., 225.

*Jugé* : Que les corporations, en usant du droit qui leur est accordé d'exproprier, sont tenus d'agir avec une diligence convenable et partant, elles sont responsables des dommages causés à l'exproprié par des délais qui n'étaient pas nécessaires. *Judah et La corporation de Montréal.* 2 R. C., 470.

*Jugé* : Qu'une corporation municipale n'a pas le droit d'exproprier un tenancier d'une portion de sa terre, pour ouvrir une route en vertu de la réserve générale, faite par la couronne, du droit de pren-

**903.** The corporation becomes the proprietor of such land, and may take possession thereof, without any other formality, from the moment that the decision of the valuers, who fixed or refused an indemnity, has become final and without appeal. (1)

dre le terrain, avant d'avoir au préalable nommé des évaluateurs pour le terrain nécessaire à la route ; que malgré cette réserve et l'article 906 C. M., le tenancier a droit à une indemnité pour le terrain dont il est exproprié. La corporation du comté Dorchester et Collet v. Q. L. R., 63.

(1) *Jugé* : Que dans une action en réintégration contre une corporation avec des conclusions demandant des dommages, l'avis d'un mois requis par l'article 22 C. P. C., n'est pas nécessaire : qu'une corporation municipale locale est responsable des actes de ses officiers si elles les a ordonnés ou si elle essaie de les justifier. *Dorion v. la corporation de la paroisse de St-Joseph*. 17 L. C. J., 193.

*Jugé* : Que si les officiers d'une municipalité entrent sur un immeuble pour y exécuter un procès-verbal ordonnant la réouverture d'un chemin sur cet immeuble, la cour, sans s'occuper de la question de savoir si le chemin existe, ou même si le procès-verbal qui en ordonne la réouverture est régulier ou non, mais statuant uniquement sur le fait que le demandeur a été en possession pendant l'an et jour, maintiendra l'action possessoire portée contre la municipalité ;

Qu'un propriétaire qui a enclos dans son terrain un ancien chemin public et qui le possède de cette manière depuis l'an et jour a la possession voulue pour porter l'action en complainte contre la municipalité, et il n'importe pas que la destination du chemin n'ait jamais été changée ; que si le demandeur dans une telle action conclut simplement au paiement des dommages par lui soufferts sans conclure en aucune manière, ni au possessoire, ni au pétitoire, telle action est néanmoins une action possessoire. *Hall et La corporation de la ville de Lévis et al.* 3 R. L., 389.

*Jugé* : Qu'un conseil municipal ne peut s'emparer d'un terrain pour la confection d'un chemin avant d'avoir fait procéder à l'évaluation prescrite par les articles 903 et suivants du code municipal. *Holton et Callaghan*. 9 R. L., 665.

*Jugé* : Que la loi du pays et particulièrement l'article 407 Code Civil ne permet pas à une corporation municipale de contraindre un propriétaire à lui céder sa propriété, pour cause d'utilité publique, sans une juste et préalable indemnité. *Dupras et al. vs. La corporation du village d'Hochelaga*. 12 R. L., 35.

*Jugé* : Qu'une corporation municipale qui, pour élargir une rue, y construire un quai, s'empare d'une quantité de terrain malgré son propriétaire, et prive celui-ci d'un passage communiquant à la grève, doit, ou remettre au propriétaire le terrain usurpé ou en payer la valeur et de plus, faire construire un passage en remplacement de celui enlevé et payer au propriétaire des dommages dont le montant sera établi par arbitres. *Corp. de la cité de Québec & Henry Et al.* Hall. 15 R. L., 107 and 108.

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**904.** No council of a county or rural municipality, can, without the consent in writing of the proprietor ;—1. Demolish or injure any house, barn, mill, or other building ;—2. Cause a public road to be made through any farm yard or any garden enclosed by a wall, hedge, board or standing picket-fence, nor through any orchard or maple grove situated within a radius of four hundred feet of the house inhabited by the occupant of such orchard or grove, nor through any wood-yard, pleasure ground or other improved and enclosed land, being contiguous to and forming the dependence of a country-house or residence. (*R. S. Q.*, art 6191). (1)

**905.** No municipal council, can, without the consent in writing of the owner, in any manner injure any canal, or the dam of any mill or manufactory, nor divert the course of the water which feeds such canal, mill or manufactory, nor cause a public road to pass through property mentioned in any of the first four paragraphs of article 712.

**906.** No indemnity must be allowed for the land required for the first front road upon a lot, nor for the land reserved for a public road in the grant or concession of a lot.—Nor is any indemnity to be allowed by way of *prix d'affection*. (2)

**907.** In the valuation of any land taken for a public road, the value of the road which has been done away with, which falls to the expropriated proprietor under article 753, and the special advantages which such pro-

(1) *Jugé* : Qu'aux termes de l'article 904 du code municipal, le conseil d'une municipalité de campagne ne peut, sans le consentement par écrit du propriétaire, faire passer un chemin public à travers une érablière située dans un rayon de quatre cents pieds de la maison habitée par l'occupant de telle érablière, quand même le chemin projeté passerait au-delà du rayon des quatre cents pieds. *Massue et al. & Corp. de la paroisse de St-Aimé*. 31 L. C. J., 246.

(2) *Held* : That the corporation, Appellant, had no power to take any of the Respondent's land for a road, without fulfilling the formalities prescribed by law for the expropriation of the land required for such road. The general reserve in the letters patent from the Crown is made in favor of the Crown only, and does not pass to the municipal authority.—*Corporation du Comté de Dorchester, Appellant and Collet, Respondent*, 8 L. N. 156.

prietor derives from the new road as laid out, must be estimated and go in deduction of the value of such land.—If the land is taken for any other public work, the advantages which the proprietor derives, from such work are also estimated and go in deduction of the value of such land.

**908.** The indemnity to be paid for any land liable to expropriation may be fixed and established by agreement between the proprietor thereof, if he is of age and in possession of civil rights, and the council under the control of which such expropriation takes place; and it may also be agreed that no indemnity need be accorded to the expropriated proprietor.—In the absence of an understanding between such parties, the value of such land in question, together with whatever goes in compensation with the value of such land, is estimated by the valuers of the local municipality in which such land is situated, and the indemnity is fixed or refused by them.

**909.** No one can act as valuator under the provisions of this title:—1. Whenever he himself, or his relations either by blood or marriage, to the degree of cousin-german exclusively are interested as expropriated persons;—2. Whenever he himself will be called upon to pay the indemnity, which may be granted. Nevertheless, no valuator can be objected to, on the ground of relationship to any one of the parties who must pay the indemnity, in the case where such indemnity may be granted.

**910.** No objection to the competence of any valuator can be made, after the award fixing or refusing such indemnity has been rendered.

**911.** If by reason of incompetence, absence, refusal or other causes, some of the valutors in office or of those appointed to replace them, do not act under the provisions of this title, the local council must replace them by other persons capable of discharging such office.—These substitutes are invested, with the same powers, subject to the same obligations and liable to the same penalties as the valutors in office, but they only

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discharge their duties, with regard to the special case of expropriation for which they were appointed.

**912.** The valuator, required to proceed in virtue of the provisions of this title, commence their proceedings at the time and place fixed by the council asking the expropriation, and of which they have given public notice, and also a special notice of at least five days to the parties to be expropriated. — They may adjourn their investigations and the examination of the parties interested and their witnesses, from day to day, until the award is rendered.

**913.** Such valuator, after having examined and valued the land and heard the parties interested and their witnesses, render their awards, by means of one or more certificates, which are lodged by them in the office of the council demanding the expropriation. — Public notice of such lodging must be given without delay by the secretary-treasurer of the council.

**914.** Every award rendered by the valuator is final and cannot be appealed from, after the expiration of the thirty days from the notice of the lodging of the certificates, unless objection be made thereto in virtue of the following article.

**915.** Any one aggrieved by any award so rendered may make objection thereto by producing a petition in writing to such effect, at the office of the council, within the thirty days which follow the public notice given under article 913.

**916.** After the production of such petition at the office of the council, on demand of one of the parties interested, three new valuator are appointed as follows; one by the council which demands the expropriation, one by the party who objects to the award, or by the party who maintains the award, if it be the council that object to it, or by the clerk of the circuit court for the county or district. — If one of the parties refuse to appoint and to make known his valuator within the two days which follow the demand therefor, which is served upon such party, the valuator is appointed by such judge, district magistrate, prothonotary or clerk.

**917.** The three new valuers, after having made oath well and faithfully to discharge their duties, proceed with the valuation of the land and of whatever enters into compensation therewith, to the hearing of the parties interested and their witnesses and to the rendering of their award, in the same manner as the previous valuers, save and except the time and place of their deliberations which they fix themselves.—The award rendered, by such valuers, is final and without appeal.

**918.** In every award rendered by them the valuers must mention the lot of which the land taken forms part, indicate the proprietor of such land, as well as the by-law, *procès-verbal*, or order of the council in virtue of which such land is taken, and fix the amount of indemnity, if they grant any, and if not, state their refusal.

**919.** The indemnity granted by the valuers bears interest at four per cent, from the day of the entry into possession of such land, and is payable by the corporation at the expiration of the four months which follow such entry into possession.

**920.** Any person in possession of such land at the time of the valuation thereof and who is *bona fide* deemed to be the proprietor thereof, may receive the indemnity granted for such land, saving the recourse of the real proprietor against the person who has received the indemnity.

**921.** If, before the expiration of the four months, creditors come forward, who claim payment of the indemnity, either in whole or in part, the secretary-treasurer must retain in his hands the moneys intended to pay such indemnity, or the portion thereof claimed, until, on petition to that effect, a judgment is rendered by the magistrate's court for the county or district.

**922.** If the public work which required the expropriation is at the cost and charge of the rate payers, in accordance with the provisions of a by-law, of a *procès-verbal*, or of the law, the amount of all the indemnities, with interest and costs, must be apportioned, like any

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other municipal tax, by the secretary-treasurer, upon all the rate-payers, according to the value of the taxable property on account of which they are liable for such works.—The collection of the moneys is made, with as little delay as possible, by the secretary-treasurer, in the same manner as local taxes.

**923.** If the council so order, the amount of such indemnities is apportioned by the municipal officer who conducts the work to which the indemnity relates, and collected by him in the same manner as any other tax for roads or other public works.

**924.** If the works which require the expropriation are under the direction of the county delegates, the expropriation of all lands takes place under the control of the municipal council of the county in which such lands are situate, according to the instruction of the board of delegates.

## TITLE IX.

### APPEALS TO THE COUNTY COUNCIL.

**925.** An appeal lies to the county council, from the passing of any by-law made by the council of any rural municipality, except those which merely repeal other by-laws, those which relate to the sale of intoxicating liquors, and those which, before coming into force, must be approved by the municipal electors.—The right of appeal can only be exercised within the thirty days which follow the promulgation of the by-law, and no appeal shall lie from a resolution, even when it is passed in the exercise of the powers conferred by article 460. (*R. S. Q.*, art. 6192.) (1)

(1) *Semble* that there can never be final judgment (*chose jugée*) in the matter of a *procès-verbal* except in case an appeal would be interjected twice of the homologation of the same *procès-verbal*, or in case proceedings would be taken for the homologation or the dismissing of a *procès-verbal* already dismissed or homologated.—

**926.** An appeal lies to the same council from the homologation of any *procès-verbal* made by any local council, within thirty days following the notice of homologation given in virtue of article 808, as also from any decision of a local council rendered under article 819, respecting an act of apportionment, within the thirty days which follow such decision.—An appeal also lies to the county council to any refusal to homologate a *procès-verbal* by the council of a rural municipality and the dismissal by the local council, or by its superintendent, of any petition proving for the opening and maintenance of a municipal road, bridge or water-course or for new provisions respecting their maintenance within the thirty days following the refusal of such homologation of the dismissal of such petition. (*Id.*, art. 6193). (1).

Corporation of Ste-Philomène vs. Corporation of St-Isidore, 29 L. C. 240.

*Held*: 1. That a writ of injunction may issue to prevent a county council from hearing or deciding the merits of an appeal from a decision of a local council, when the law does not allow the appeal: 2. That there is no appeal to the county council of a decision of a local council dismissing a petition asking to amend a *procès-verbal* in force that has ordered the opening and maintenance of a municipal road; That the *mis en cause* in the present case, will alone be condemned to the costs.—*Coutlée vs. Corporation of the county of Joliette*, 9 L. N. 154.

*Jugé*: Que la décision du conseil de comté en appel fait loi pour le conseil local, et que les procédures du conseil local, faites en désobéissance à cette décision sont illégales.

Qu'il ne peut être pris deux appels devant le conseil de comté sur un même *procès-verbal*;

Que le défaut de donner avis du dépôt d'un acte de répartition ne rend pas cet acte de répartition nul, mais l'empêche seulement d'entrer en vigueur;

Que lorsqu'une corporation municipale outrepassa ses pouvoirs, il y a lieu à prendre contre elle un bref d'injonction;

Qu'un affidavit en termes généraux affirmant la vérité des faits allégués dans la requête pour injonction est suffisant. *Coté vs. La corporation de St-Augustin*, 13 Q. L. R., 348.

(1) *Jugé*: Qu'un électeur municipal n'est pas privé du droit de demander la cassation d'une résolution d'un conseil municipal parce qu'on lui aurait garanti les frais de cette procédure.

Qu'il y a appel au conseil de comté, sous l'article 926 C. M. du rejet par un conseil local d'une requête demandant la construction d'un pont, même si ce rejet a eu lieu sans que le conseil local ait, au

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**926a.** The right of appeal in all cases mentioned in article 926 equally exists when a water-course is in question. (*Id.* art. 6194).

**927.** Repealed. (*Id.* art. 6195).

**928.** The appeal may be brought before the county council by any person having an interest therein.

**929.** The appeal is brought by means of a summary petition, which must be filed in the office of the county council, within the prescribed delays, in default whereof the right of appeal determines.—A copy of such petition must, within the same delay, be served at the office of the local council.

**930.** Every petition in appeal must be taken into consideration by the county council, within the thirty days next after it has been filed in the office of the council, in default of which the appeal determines, save in the cases of the following article:—Whenever no ordinary session is to be held within the thirty days, it is the duty of the secretary-treasurer or of the warden, if they are notified thereof, to summon a special meeting of the council to be held within such delay, to take into consideration such petition in appeal.

**931.** If the special session convened under the preceding article is not held, through the absence of a quorum, the petition in appeal may be taken into consideration at the next general session.

**931a.** The county council cannot, however, take the petition in appeal into consideration until after public notice, of the day and hour of the session at which it will proceed to the examination of such petition, has been given to the secretary-treasurer, or by the warden, in the local municipality from which the appeal comes. (*R. S. Q.*, art. 6196).

**932.** The council, after having heard the petitioners préalable, nommé un surintendant ou consulté les intéressés, conformément à l'article 794 C. M.  
Que sur cet appel, le conseil de comté peut rendre la décision que le conseil local aurait dû rendre et nommer un surintendant qui doit faire rapport au conseil local. *Riopel vs. La corporation du comté de l'Assomption*. 13 R. L., 489.

and the members of the local council or the secretary-treasurer thereof, and after having heard the witnesses and examined the documents produced by the parties, confirms, amends or disallows the by-law, *procès-verbal*, or decision appealed from.—By its decision, the county council may award and tax the costs in appeal against the party, and in favor either of the county corporation or of any other party; and such costs may be recovered in the same manner as penalties imposed under the provisions of this code (1).

**933.** If the county council neglects or refuses to take into consideration the petition in appeal, within the prescribed delay, or if, after having taken the same into consideration within such delay it closes the session or adjourns the same *sine die* or for any period beyond ten days, without having decided upon the merits of the petition, the appeal is quashed, and the by-law, *procès-verbal*, or decision appealed from, is held to be confirmed by the county council.

**934.** A copy of the decision of the county council, if a decision was arrived at, or otherwise, a certificate from the secretary-treasurer of such council, establishing that no decision was given by the council within the required time, must be transmitted, without delay, to the office of the council of the local municipality from which the appeal arose.

(1) *Jugé*: Que les fonctions des conseillers municipaux sont à la fois administratives, législatives et judiciaires; et que les décisions rendues par eux en leur capacité judiciaire permettent d'invoquer à leur égard la théorie de la chose jugée. *Corporation du comté d'Yamaska vs. Durocher*, 30 L. C. J., 216.

*Jugé*: Que, sur un appel au conseil de comté de la décision d'un conseil local rejetant une requête demandant l'ouverture d'un chemin, le conseil de comté peut rendre la décision que le conseil local aurait dû rendre, et nommer un surintendant spécial, pour visiter les lieux et faire rapport. *Bossé vs. La corporation de comté No 1 de Chicoutimi*, 18 R. L., 531.

*Jugé*: Que le conseil de comté, siégeant en appel d'une décision d'un conseil local adoptant le rapport d'un surintendant spécial refusant d'ouvrir un chemin entièrement situé dans les limites de la municipalité locale, n'a pas le droit d'ordonner, sous son contrôle, le tracé et l'ouverture de ce chemin, ni d'en régir l'entretien ce chemin n'étant pas un chemin de comté. *Joseph Rioux et La Corporation du comté de Rimouski*. 33 L. C. J., 260.

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**935.** Every decision of the county council, which recommends any *procès-verbal*, must be published by the secretary-treasurer of the local council by a public notice containing the substance of such decision.

**936.** Whenever a petition in appeal is reserved at the office of the local council, the secretary-treasurer of such council must forthwith transmit all the documents, relating to the matter which forms the subject of the appeal, to the office of the county council.—These documents must be returned to the office of the local council, immediately upon the expiration of the time during which such decision might have been rendered.

## TITLE X.

### MUNICIPAL TAXES ON DEBTS.

#### CHAPTER I.

##### MUNICIPAL TAXES.

#### SECTION I

##### GENERAL PROVISIONS.

**937.** Municipal taxes, imposed on the taxable property of a municipality, must be apportioned, as well in the taxable real estate as on the moveable property declared to be taxable by article 710, unless it be specially declared that such taxes must be imposed solely on the taxable real estate.

**938.** The amount of every tax imposed by a county council, for general or special purposes, is levied, except in the case mentioned in articles 490 and 491, on all the local corporations of such county, in proportion to the total value of their taxable property liable for the payment of such tax. (1)

(1) *Held:* That a tax to cover certain necessary expenses of the corporation of a county cannot be imposed on the different municipalities within the county otherwise than by by-law, and that an attempt to impose such tax by resolution is illegal.—The Corporation of Hodelaga vs. The Corporation of Côte St-Antoine, 27 L. C. J. 177.

**939.** The portion imposed on each local corporation constitutes a debt payable by such corporation to the county council, according to the conditions and on the terms fixed by such council.—The amount of such portion or debt is levied in the local municipality in the same manner as local taxes, on all the taxable property subject to such tax, without its being necessary to make other by-laws or orders for that purpose.—In the case of refusal or neglect on the part of the local corporation, to pay the portion which has been imposed upon it, such portion may be recovered from it in the manner set forth in article 951. (1)

**940.** The secretary-treasurer of the county council is bound, before the fifteenth day of May in each year, or at any other period fixed by the council, to apportion, with the approval of the latter, among all the local corporations of the county municipality, the sums payable to the county council, during the current year, in virtue either of municipal orders or of former apportionments in force, and to transmit to the office of the council of each local corporation a certified copy of such apportionment.—Whenever a new sum of money is imposed by the county council, after the period fixed upon by this article, a new apportionment must be made and transmitted in the same manner by the secretary-treasurer.

**941.** Taxes imposed for county purposes, under a *procès-verbal*, or act of apportionment relating to any *procès-verbal*, or made under articles 490 or 491, are collected by the officers of the local municipalities, in which is situated the taxable property affected in the same manner as taxes imposed for local purposes. —

(1) *Held:* 1. That the district magistrate has jurisdiction for the recovery of municipal taxes, whatever be the amount;—2. That under art. 939 and 951, M. C., a local corporation may be sued before the district magistrate for the recovery of a county debt due by the local corporation to the county corporation;—3. That a district magistrate is not disqualified to sit in such cases by the fact that he is a rate-payer in the interested municipality.—*La Corporation de la Paroisse St-Guillaume vs. La Corporation du Comté de Drummond*, 7 R. L. 642.

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A statement of such taxes must be without delay transmitted to the mayor of the local municipality or to the persons entrusted with their collection, if such persons are not those whose duty it is, under the control of the county council or the county delegates, to attend to the execution of the *procès-verbal*, of the act of apportionment, of the by-law, or of the law. — In default of the municipal officers levying or causing such taxes to be levied during the two months next after the forwarding of such statement the secretary-treasurer of the county-council possesses, for the purpose of levying and collecting such taxes, all the rights and powers had by such local officer under section second of chapter first of title tenth of this code, and the payment of the taxes in such case shall be made at the office of the secretary-treasurer of the county council. (R. S. Q., art. 6197). (1)

**941a.** The secretary-treasurer of every county council shall, if necessary, prepare in the month of November of each year a statement showing, in as many distinct columns:— 1. The names and calling of all persons indebted to the county corporation or to its officers for taxes imposed for county purposes, under a *procès-verbal* or an act of repartition relating to a *procès-verbal* or made in virtue of articles 490 and 491 as set forth in the act of repartition;— 2. The amount of all taxes remaining due to the county corporation, and to the officers of the county council by each of such persons or by unknown persons;— 3. The costs of collection due by such persons;— 4. The description of all real estate liable for the payment of the taxes mentioned in such statement;— 5. The total amount of taxes, interests and costs affecting such real estate;— 6. The reasons why such sums were not collected. — Such statement shall be sub-

(1) *Held*: —That the means of collecting the contributions due to the county council is through the local municipalities and their officers; and that the county corporation has no right to proceed directly against the rate-payers by action or otherwise. — *Roberge vs La Corporation de Lévis*, 7, R. L., 642. (This decision does not apply now since the amendment.)

mitted to the county council and approved by it (5 Vict., chap. 54, s. 21). (1)

**942.** All municipal taxes, imposed on taxable property for local or county purposes, must be fairly apportioned according to the valuation roll in force, on all property subject to the payment of such taxes, in proportion to its taxable value, that is to say, in proportion to the actual value of the real estate, and the estimated value of property declared taxable under article 710, save the case specified in article 783.

**942a.** In determining the value to be given to lands used for agricultural purposes and situated within the limits of town or village municipalities, regard is had to the value of such lands for agricultural purposes simply, except for that part fronting on streets and roads to the ordinary depth of building lots in that locality, which may be taxed according to its real value. (R. S. Q., art. 6198).

(1) *Jugé*: Que les taxes imposées pour des fins de comté, en vertu d'un procès-verbal ordonnant la construction d'un pont, ne peuvent être recouvrées des corporations locales par la corporation de comté, mais une corporation de comté n'a de recours que contre les contribuables obligés suivant l'acte de répartition. La corporation du comté de Missisquoi *vs.* La corporation de la paroisse de St-George de Clarenceville, 13 R. L., 669.

Dans la cause de Simard et La corporation du comté de Montmorency, 4 Q. L. R., p. 208, il a été jugé, confirmant le jugement de C. S. Q. L. R., Québec, 1877, Stuart, J., que les taxes imposées aux contribuables individuellement par un conseil de comté, en vertu d'un procès-verbal et d'un acte de répartition s'y rapportant, pour l'ouverture et la confection d'un chemin tournant sous sa juridiction, ou imposées sur des propriétés intéressées dans un ouvrage public, peuvent être recouvrées au nom de la corporation du comté par une poursuite devant un juge de paix, contre les particuliers obligés au paiement de ces taxes par l'acte de répartition; mais les taxes imposées par le conseil de comté sur les municipalités locales ne peuvent être prélevées des particuliers que par les municipalités locales.

*Jugé*: Qu'un corps municipal ne peut pas en loi réclamer le coût d'ouvrages et de travaux, à moins qu'il ne l'ait préalablement payé à l'entrepreneur, que le coût d'un ouvrage de comté est à la charge des contribuables et non pas des municipalités locales; que la collection d'une telle créance doit se faire par le prélèvement de la quote-part de chaque intéressé par le secrétaire-trésorier de chaque municipalité locale, suivant la 59ème section de l'acte municipal. Corporation de la paroisse de St-André, appelante, et La corporation du comté d'Argenteuil, intimée, 3 R. L., 374.

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**943.** The council of every local municipality may by a resolution, exempt from the payment of municipal taxes, for a period not exceeding twenty-five years, any person who carries on any business, trade, or manufacturing enterprise whatsoever, or the proprietor of any bridge, as well as the land used for such business, trade, manufacturing enterprise, or bridge; or may agree with such person for a fixed sum of money payable annually for any period not exceeding twenty-five years, in commutation of all municipal taxes.—It may also exempt the poor of the municipality and their property from the payment of municipal taxes.—Such exemption or agreement does not extend to work upon water-courses, boundary ditches, fences, clearances, or front roads, connected with taxable property so exempted or commuted. (*Id.*, art. 6199). (1)

**944.** The local council may, whenever it deems advisable, authorize by resolution the secretary-treasurer or any other officer, to add a sum not exceeding ten per cent, to all taxes to be levied on the taxable property in the municipality to cover losses, costs and bad debts.

**945.** Municipal taxes or contributions in labor or materials are always convertible into money, after they fall due.

**946.** All municipal taxes are regarded as privileged debts exempt from the formality of registration.

**947.** Taxes bear interest, at the rate of six per cent, from the expiration of the delay during which they ought to be paid, without its being necessary for such purpose that a special demand of payment be made.

(1) *Jugé*: Qu'une corporation municipale, peut, sous les dispositions de l'article 943 C. M. exempter des taxes municipales, non seulement les manufactures spécialement mentionnées dans une résolution passée à cet effet, mais encore toutes les industries nouvelles qui s'établiront à l'avenir dans les limites de la municipalité, et que cette exemption comprend les taxes spéciales imposées pour aider à la construction d'un chemin de fer.

Qu'il y a appel à la cour du Banc de la Reine d'un jugement rendu par la cour de circuit, dans une cause en recouvrement de taxes, quoique le montant réclamé soit au-dessous de \$100, si l'on met en question le droit de percevoir des taxes de cette nature. La corporation du village du canton de Chambly *vs.* Lamoureux et al. 19 R. L., 312.

Neither the municipal council nor its officers can remit such interest.

**948.** All municipal taxes, imposed on any land, may be collected from the occupant or other possessor of such land as well as from the owner thereof or from any subsequent purchaser of such land, even when such occupant, possessor or purchaser is not entered on the valuation roll. (1)

**949.** Any person, not being the proprietor, who pays municipal taxes imposed in consideration of the land which he occupies, is subrogated without other formality, in the privilege of the corporation on the moveable or immoveable property of the proprietor, and may, unless there be an agreement to the contrary, withhold from the rent or from any other debt which he owes him or recover from him by personal action, the amount which he has paid in principal interest and cost.

**950.** All arrears of municipal taxes, except in the case of articles 402 and 495, are prescribed by three years. This provision is subject to the application of articles 2267 and 2270 of the civil code. (2)

(1) *Jugé* : Que les taxes municipales ne sont pas payables jour par jour, mais sont indivisibles et sont dues par le propriétaire et possesseur de l'immeuble sujet à cotisation, au temps de l'imposition de ces taxes ; que le fait qu'une personne non propriétaire d'un immeuble aurait été entrée sur le rôle et cotisée comme propriétaire d'un immeuble ne le rend pas contribuable. *Hogan vs. La cité de Montréal*. 1 M. L. R., 60.

(2) *Jugé* : 1° Que le magistrat de district a juridiction pour le recouvrement de taxes municipales quelqu'en soit le montant.

2° Que sous les articles 939 et 951 du code municipal, une corporation locale peut être poursuivie devant le magistrat de district pour le recouvrement d'une dette de comté due par la corporation locale à la corporation du comté.

3° Qu'un magistrat de district n'est pas disqualifié pour juger semblables causes, parce qu'il est contribuable de la municipalité intéressée. La corporation de la paroisse St-Guillaume *vs.* La corporation du comté de Drummond. 7 R. L., 562.

*Jugé* : Que la créance d'une corporation est éteinte, vis-à-vis du débiteur, par la vente, par un syndic en faillite, de la propriété affectée, et une corporation peut être recherchée en dommage pour saisie illégale des meubles du débiteur dans ces circonstances. *Blain vs. La corporation de Granby*. 5 R. L., 180.

*Jugé* : Que le seul moyen de collecter les contributions dues à

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**951.** The payment of municipal taxes may be also claimed by an action brought in the name of the corporation, before any justice of the peace, before the commissioners' court for the summary trial of small causes of the parish or municipality, if there be one, before the magistrate's court, or before the circuit court for the county or district, as well against persons absent from the municipality as against those present therein. (*R. S. Q.*, art. 6200). (1)

**952.** The local council must on the requisition of the school commissioners or trustees of any school mun-

conseil de comté, est par l'entremise des municipalités locales et ses officiers et que la corporation de comté n'a pas droit de procéder directement contre les contribuables par action ou autrement. *Roberge et la corporation de Lévis*, 7 R. L. 642.

*Jugé* : Que nonobstant l'article 1077 du C. M., il y a lieu à la révision d'un jugement de la cour supérieure, dans une poursuite pour taxes municipales lorsque le montant excède \$100. La corporation de Grantham *vs* Ward. 11 Q. L. R., 222; 14 R. L., 64.

*Jugé* : Qu'il n'y a d'appel d'un jugement en matières municipales que lorsque tel jugement est pour une somme de \$100 ou plus. *Rioux vs. La corporation de Rimouski*. 11 Q. L. R., 231.

*Jugé* : Que toute action pour le recouvrement de taxes ou contributions municipales doit être portée soit devant la cour supérieure, soit devant la cour de circuit suivant le montant en litige, le code de procédure civile ne contenant aucune disposition exceptionnelle à l'égard de ces dites taxes comme celles qu'il contient au sujet des taxes scolaires et des contributions pour la construction et réparation des églises et presbytères. La corporation d'Irlande Nord et Mitchell. 13 Q. L. R., 32.

(1) *Jugé* : Que par la sec. 96 de la 37 Vict. Chap. 10 (1874) le privilège accordé à la ville pour les sommes qui lui sont dues pour taxes et cotisations ne s'étend qu'à l'année courante, lorsque la réclamation est faite, et aux cinq années qui précèdent immédiatement celle-là. *Cité de Montréal & Hon. J. L. Baudry*. 31, L. C. J., 34.

*Jugé* : 1<sup>o</sup> Que les taxes municipales spéciales imposées pour la construction d'égout dans la cité de Montréal ne sont pas des taxes ordinaires et n'entrent pas dans la catégorie des fruits civils échéant jour par jour, et que par suite, elles ne sont sujettes à aucune prescription particulière et ne peuvent se prescrire que par trente ans.

2<sup>o</sup> Que pour le prélèvement de ces taxes, le conseil de la cité de Montréal, put déléguer ces pouvoirs à un de ses officiers municipaux.

3<sup>o</sup> Que pour la confection de travaux publics de même nature dans la cité de Montréal, il n'est pas nécessaire de faire un règlement particulier pour chaque cas; un règlement général, fait par le conseil sur la recommandation d'un de ses comités, est suffisant. La cité de Montréal *vs*. Dr Cuvillier et al. 3 M. L. R., 565.

unicipality, situated within the limits of the local municipality, accept the school assessment roll or certified extract therefrom presented by them, and order the secretary-treasurer to collect such taxes in the same manner and the same time as municipal taxes.

**953.** Taxes levied by the local council for public works in each of any townships, united to form a distinct local municipality, under article 39, are expended, less the costs of collection and of management, in the townships in which such taxes were levied, unless the county council otherwise orders.

### SECTION III.

#### COLLECTION OF TAXES IN LOCAL MUNICIPALITIES.

**954.** It is the duty of the secretary-treasurer of every local council, to make a general collection roll, each year during the month of october, or at any other time fixed by the council. — He must also make a special collection roll, whenever a special tax has been imposed after the making of the general roll, or whenever he is ordered so to do by the council.

**955.** Every collection roll must contain, in different columns: —1. The name and quality of each proprietor, who is a rate-payer, entered on the valuation roll, or the word "unknown," if the proprietor is unknown. — 2. The names and qualities of every occupant of taxable land, who is not the owner thereof, if such occupant is known, whether he is or is not entered upon the valuation roll; — 3. The actual value of the taxable real estate of each rate payer; — 4. The value of the property of each rate-payer, declared taxable in virtue of article 710; — 5. The total value of the taxable property of each rate-payer; — 6. The amount of taxes payable by each rate-payer. (1)

(1) *Held:* That if the collection roll mentions the share of taxes of some rate-payer at a higher figure than it ought to be according to the by-law imposing the same, such roll is null *quoad* this rate-

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**956.** If the collection roll is general, it must set forth in detail, in as many distinct columns, all taxes due since the making of the last general collection roll, distinguishing therein local taxes from those which have been imposed for county purposes.

**957.** In every local municipality in which taxes have been imposed in virtue of article 584 or 595, the secretary-treasurer must enter on the general collection roll, in the column for the names of rate-payers, the names and qualities of all persons liable for such taxes, and in separate columns the amounts due.

**958.** The secretary-treasurer must enter on the general collection roll and collect all municipal taxes payable in or converted into money, ordinarily collected by other municipal officers, and due or payable either to the corporation or to the officers of the council, by persons occupying taxable property in the municipality, provided that a statement, certified and attested under special oath, be transmitted to the office of the council before the making of the general collection roll.

**959.** If the municipal council has ordered, by resolution, that the collection of school taxes be made at the same time and in the same manner as municipal taxes, the secretary-treasurer must enter, on the general collection roll, the amount of such taxes, collect them and remit them forthwith to the secretary-treasurer of schools.

**960.** The secretary treasurer, after having completed payer only for the surplus.—*Dubois vs. La Corporation du village d'Acton Vale*, 2 R. L. 565.

*Jugé*: Que les formalités prescrites par le code municipal relativement au rôle de perception doivent être strictement observées. La corp. du village du Bassin de Chambly et Scheffer. 1 M. L. R., 42.

De simples irrégularités dans le mode de procéder à la cotisation, quoiqu'elles aussent pu, sur une procédure à cet effet, autoriser les contribuables à faire casser le rôle de cotisation, ne les autorisent pas à recouvrer d'une corporation municipale le paiement de taxes par eux fait volontairement. *Bain vs. La cité de Montréal*, Cour Suprême du Canada 30 avril 1882, *Ritchie J. en O., Strong J. Fournier J. Henry J. (dissident) Taschereau J. et Gwynne J. (dissident)* Rapports Cour Suprême du Canada, p. 252, confirmant le jugement de la Cour d'Appel qui est rapporté dans 2 déc. de la C. d'Appel, p. 221. 17 R. L., 559.

the collection roll, gives public notice by which he announces that the general collection roll, or the special roll, as the case may be, has been completed and is deposited at his office, and requires all persons subject to the payment of the taxes or sums therein mentioned, to pay the same at his office, within the twenty days next following the publication of such notice.

**961.** At the expiration of such delay of twenty days, the secretary treasurer must make a demand of payment of all taxes and sums of money entered in the collection roll, and remaining uncollected from the persons liable for the same, by serving or causing to be served upon them a special notice to that effect, accompanied by a detailed statement of the sums due by them.—Until the fee for the service of such notice is fixed by the council, in virtue of article 471, the secretary-treasurer is entitled to twenty-five cents for the service of such notice notwithstanding any municipal by-law in force at the time when this code comes into force. (1)

**962.** If, after the fifteen days next following the demand made in virtue of the preceding article, the sums due by the persons entered on the collection roll have not been paid, the secretary-treasurer may levy them together with cost by seizure and sale of the goods and chattels of such persons which may be found in the municipality. (2)

(1) *Jugé* : Que la demande de paiement pour les taxes, en vertu de l'article 961 du code municipal adressée à une femme séparée de biens, et à elle transmise dans une enveloppe à l'adresse du mari, est suffisante, que la cour de circuit a juridiction dans ces causes quel qu'en soit le montant. La corp. du village de Bienville *vs.* Gillespie. 6 Q. L. R., 346.

(2) *Jugé* : Qu'un usufruitier est responsable des taxes. La corporation de Montréal *vs.* Contant 2 R. C., 482.

*Jugé* : Que les taxes scolaires ne peuvent être poursuivies ou recouvrées dans la Cour Supérieure que dans une poursuite pour arrérage de taxes municipales, et il n'est pas nécessaire de produire l'original du rôle de perception ; la preuve de l'avis public, requis par l'article 910, C. M., et des extraits certifiés du rôle de perception est suffisante ; que les arrérages de ces taxes dues par une personne décédée, peuvent être recouvrés de son légataire universel. La corporation du canton d'Acton *vs.* Fulton et al. 24 L. C. J., 115.

*Jugé* : Que les arrérages de taxes et cotisations municipales impo-

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**963.** Such seizure and sale are made under a warrant signed by the mayor of the council or by the warden of the county, as the case may be.—Such warrant is addressed to a bailiff, and must be executed by that officer under his oath of office, according to the same rules and under the same responsibilities and penalties as a writ of execution *de bonis*, issued by the circuit court.—The mayor or warden, as the case may be, in giving and signing such warrant, does not incur any personal responsibility; he acts under the responsibility of the corporation, in whose interest the distress is made. (*R. S. Q.*, art. 6201.) (1)

sées sur un immeuble, peuvent être recouvrés par action personnelle du propriétaire actuel, bien que ces taxes et cotisations aient été imposées durant que l'immeuble appartenait à un propriétaire antérieur. La corporation de la paroisse de Ste-Brigide *vs.* Murray. 14 R. L., 227.

*Jugé* : Que la corporation de la cité de Montréal, en exigeant, sous menace d'exécution, le paiement d'une taxe imposée par un rôle de cotisation apparemment revêtu des formalités voulues par la loi, mais qui fut ensuite déclaré nul par les cours, ne peut être considérée comme étant de mauvaise foi, dans le sens de l'article 1049 C. C., et conséquemment, n'est tenue de rembourser que la somme perçue avec les intérêts du jour du paiement. *Wilson et al.*, et la cité de Montréal. 24 L. C. J., 222.

*Jugé* : Que ces effets n'ont pas été dans la possession du mari selon le sens du statut, lorsque des effets appartenant à l'épouse séparée de biens ont été saisis au domicile conjugal pour des taxes dues par le mari, la co-habitation ne détruisant pas la possession séparée de la femme. *Green et vir. vs. La cité de Montréal.* 22 L. C. J., 128.

(1) *Jugé* : Que la créance d'une corporation est éteinte vis-à-vis du débiteur par la vente par un syndic en faillite de la propriété affectée.

Qu'une corporation peut être recherchée en dommages pour saisie illégale des meubles du débiteur dans ces circonstances. *Blain vs. La corporation de Granby.* 5 R. L., 180.

*Jugé* : Que, dans une action en dommage contre une corporation pour l'émanation illégale d'un mandat de saisie, la corporation n'a pas droit à un mois d'avis, sous l'article 22 C. P. C. *Blain vs. La corporation du village de Granby.* 18 L. C. J., 182.

*Jugé* : Que les corporations municipales sont tenues d'observer strictement les formalités prescrites par la loi et exorbitantes du droit commun, pour pouvoir exiger des contribuables le paiement de leurs cotisations et, surtout, pour être en droit d'émaner une saisie-exécution aux fins de prélever ces cotisations; que les formalités qui consistent dans les avis publics et privés remplacent, pour les corporations municipales, les procédés judiciaires qu'il est nécessaire d'adop-

**964.** The day and place of sale of the moveables and effects so seized must be announced by the bailiff by public notice, in the manner prescribed for judicial sales of moveables. — Such notice must also state the names and quality of the person whose effects are to be sold.

**965.** If the debtor is absent or if there is no person to open the doors of the house, cupboards, chests, or other closed places, or in the event of refusal to open the same, the seizing officier may, by an order of the mayor or of any other justice of the peace, cause the same to be opened by the usual means, in presence of two witnesses with all necessary force, without preju-

ter pour avoir droit de faire saisir les biens d'un débiteur ; que sur une poursuite en dommages par un contribuable contre la corporation, pour saisie illégale des biens de ce contribuable, c'est à la corporation à prouver que la saisie était légale et autorisée par l'observation de toutes les formalités voulues par la loi, quand même le demandeur aurait allégué dans sa déclaration que la saisie pratiquée contre lui était illégale et malicieuse, sans se plaindre spécialement du défaut des formalités. Matthews, et Le maire, les échevins et les citoyens de la cité de Montréal. 1 R. L., 610.

*Jugé :* Qu'il n'y a pas lieu à un bref de prohibition lorsqu'il appert, à la face des procédures, qu'il n'y a pas excès de juridiction. Le maire et al. de Sorel et Armstrong. 20 L. C. J., 171.

*Jugé :* Qu'un bref de prohibition ne peut émaner légalement contre une corporation pour arrêter les procédés sur un mandat de saisie, signé par le maire, pour prélever le paiement des taxes. Blain et La corporation du village de Granby. 18 L. C. J., 180.

*Jugé :* Qu'un corps municipal, qui a le droit d'émaner les mandats de saisie pour le paiement des taxes dues à la municipalité, est un tribunal inférieur à qui un bref de prohibition peut être adressé lorsqu'il excède sa juridiction. *Ex-parle* James Armstrong. 1 K. L., 48.

*Held :* That assessments can only be collected from those whose names appear on the assessment roll. *City of Montreal vs. Lyster.* 31 L. C. J., 28.

*Jugé :* Que la cité de Montréal peut recouvrer de l'un des propriétaires indivis dont le nom est porté sur les rôles d'évaluation et de cotisation tout le montant des taxes imposées sur l'immeuble dont il est propriétaire par indivis. Cassidy et Cité de Montréal. 17 R. L., 613.

*Jugé :* 1<sup>o</sup> Que les taxes municipales et autres impositions publiques sont à la charge de l'usufruitier.

2<sup>o</sup> Qu'un donateur ne peut, par une clause d'insaisissabilité, soustraire les biens donnés aux charges et contributions imposées dans l'intérêt public ; et que malgré cette classe d'insaisissabilité les biens qui y sont sujets peuvent être vendus pour taxes municipales. *La cité de Montréal vs. Brownson* 3 M. L. R., 146.

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**966.** No opposition or claim founded on a right of property or privilege on the moveables and effects seized can prevent such seizure and sale, nor the payment of the taxes out of the proceeds of the sale, unless a sum of five dollars, or a sum equal to that claimed in and by the warrant of distress, if such sum does not exceed five dollars, be at the same time deposited in the hands of the secretary-treasurer.—Such opposition is further made, heard and adjudicated upon in the same manner as the one made under article 970.

**967.** The sum deposited is returned to the person who paid the same, if the conclusion of the opposition or demand are granted; if not, it goes towards the payment of the costs incurred.

**968.** The proceeds in money of the sale of the effects seized, the costs of seizure and sale being deducted therefrom, are applied by the secretary-treasurer to the payment of the amounts which appear on the collection roll, with interest and costs.—The surplus, if any, is paid by the secretary-treasurer to the person whose effects were so sold, or is retained by the secretary-treasurer, in case claims are made against it, until a decision has been rendered, on petition to that effect, by the magistrate's court or the circuit court of the county or district. If the claim is admitted by the defendant, the moneys are paid by the secretary-treasurer to the claimant.

**969.** Whenever any land, subject to the payment of municipal taxes, has been seized and sold by law, or is the object of a petition for ratification of title or for expropriation, the secretary-treasurer must produce the claim of the corporation, by filing within the required delay, at the office of the sheriff or of the prothonotary, a detailed statement of such claim, certified either by the mayor of the council or by himself, together with the necessary vouchers.

**970.** Every rate-payer who is required to pay, either as municipal or school taxes, an amount greater than

that which he owes, may plead such fact by exception to any action or claim, or by opposition to any seizure of his moveable property and effects, made under article 962. Such opposition must be accompanied by an affidavit attesting the truth of the allegations it contains, be served on the officer entrusted with the execution of the warrant of seizure, and be returned within the eight days next following, before the circuit court for the county or district, or before the magistrate's court at its next session. It is subsequently heard and decided according to the ordinary rules of procedure of the court.—The opposition delays the sale, provided it is accompanied by an order for that purpose, signed by the judge or by the district magistrate or by the clerk of the court, before which it is returnable. (1)

**971.** The secretary treasurer may, under the authority of the local council, and at the expense of the corporation, employ one or more persons to assist him in collecting the municipal taxes, for whose acts, omissions or neglect he and his sureties are, nevertheless, responsible.

## CHAPTER II.

### MUNICIPAL DEBTS.

#### SECTION I.

##### GENERAL PROVISIONS.

**972.** The principal, and interest of any loan or debenture may be made payable in the province or elsewhere, either in the currency of Canada or of the country where the same are payable.

(1) *Jugé*: Qu'il y a appel d'un jugement rendu par la cour de circuit dans une cause où des procédures sont faites en vertu de l'article 970; que la cour du Banc de la Reine, dans sa juridiction, peut permettre un renouvellement de cautionnement s'il est irrégulier. *Montreal Cotton Co.*, et la corporation de la ville de Salaberry. 9 R. L., 551; 2 L. N., 388; 317.

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**973.** The principal, interest and costs of any debt contracted by a county corporation for general purposes are payable to the county council by all the local corporations of the county municipality, and are apportioned and levied in the same manner as taxes imposed by the county council.

**974.** In every by-law, made by a county council, ordering a loan or an issue of debentures to be made for the purpose of aiding in the construction of any wooden or iron railway, or any other public works, to which the corporation of one of the local municipalities of the county municipality has already contributed in its corporate name, it may be stipulated that the amount of the contribution granted by the local council, calculated on the amount of its valuation roll in force at the time such last contribution was ordered, be taken and considered as forming part of the aid granted by the county corporation, to the amounts of its share in such aid.

**975.** In any such case it is valid for the council of the local municipality, if the aid which he has granted in the name of the local corporation must be given by the debentures, and if such debentures are not issued, to cancel such aid to the amount of its share in the contribution granted by the county council. If such debentures, have been issued, the holders thereof may exchange them for debentures of the county corporation, by transferring to such county corporation, an amount of the stock of such local corporation, the council whereof, in any such case, must transfer to the county corporation its share in the debentures exchanged.

**976.** Until such cancellation or exchange has been made, the county council must, in apportioning the tax to be levied under its by law, make a deduction from the portion of the tax imposed on the corporation of such local municipality, proportionate to the amount of the aid granted by such corporation.

**977.** The whole debt contracted by any county corporation cannot, at any time, exceed twenty per cent of the value of the taxable property of the municipality.

**978.** No local council can, by itself, contract debts

for any amount exceeding twenty per cent. of the taxable property of the municipality, such amount to include the share which such council has to contribute towards paying the debt of the county corporation.

**978a.** The taxes intended to pay the interest upon municipal debentures, as also those intended for the payment of a sinking fund, or for the redemption of such debentures, shall be imposed or levied, according to the last valuation roll in force in the municipality.—It is the duty of the secretary treasurer to make each year, until the payment or redemption of the debentures, a special collection roll, apportioning on the taxable properties subject thereto, according to their respective value, as shown on such valuation roll, the amount of the tax imposed for the interest and for the annual payment to the sinking fund. (*R. S. Q.*, art. 6202.)

**979.** The provincial secretary must compile annually in the month of June, from the returns transmitted to his office in conformity with article 168, a statement in tabular form shewing:—1. The names of all the municipal corporations indebted;—2. The amount of the debt of each of such corporations;—3. The amount of interest due by them;—4. The value of the moveable and immoveable property belonging to them;—5. The amount of the valuation of taxable property in each of the municipalities, the corporation whereof is indebted;—6. The total rate of taxation or assessment in the dollar, levied for any purpose whatsoever upon taxable property or only upon taxable real estate in such municipalities.—A copy of such tabular statement must be forwarded by the provincial secretary to each branch of the legislature, within the first fifteen days of the following session. (*Id.*, art., 6203.)

**980.** The loans contracted and the debentures issued or the issue of which has been authorized before the promulgation of this code, in conformity with the acts respecting the municipal loan fund, and remaining unpaid, continue to be governed by the provisions of the acts relating thereto;—The amounts of such loans or debentures are repayable, the taxes levied to discharge

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them are apportioned and collected even in cases where the corporation is in default, and the duties and obligations of the municipal councils and officers regarding such loans or debentures must be discharged, until the same have been wholly paid and redeemed, in the same manner as if this code had not been promulgated, subject nevertheless to the application of article 978a. (*Id.*, art. 6204.)

## SECTION II.

## SPECIAL PROVISIONS RESPECTING MUNICIPAL DEBENTURES.

- 981.** Every municipal debentures must specify:— 1. The name of the corporation by which it is issued; — 2. The by-law authorizing the issue thereof; — 3. The amount for which it is given; — 4. The rate of interest payable per annum; — 5. The time and place of payment both of interest and principal; — 6. The date of issue.— It must also bear the signature of the head of the council or of any other person authorized by the council to sign it, as well as that of the secretary-treasurer. (1)
- 982.** It must further contain all provisions necessary to carry into effect the intent of the by-law in virtue of which it is issued.
- 983.** The interest on debentures is payable half-yearly.
- 984.** Every debenture is made payable either to the bearer, or to any other person named therein or to order.
- 985.** Debentures can be issued for a sum less than

(1) *Jugé*: Que lorsqu'un règlement d'une corporation municipale accordant une aide à une compagnie de chemin de fer, ne contient aucune disposition à l'effet que les conditions insérées dans le règlement seront aussi insérées dans les débetures à être émanées en vertu du dit règlement, et que ces conditions sont préalables à l'émission et à la livraison des dites débetures, doivent être émises sans condition, et qu'en ce cas, des débetures contenant les conditions du règlement ne seront pas considérés une offre légale par la corporation. Macfarlane et La corporation de la paroisse de St-Céaire. 2 M. L., R. 160.

one hundred dollars, and be made payable less than five or more than thirty years from the date thereof.

**986.** If the debentures are payable after five years from the date of their issue, the annual tax levied for payment of the yearly interest and for the sinking fund can be imposed only on the taxable real estate of the municipality.

**987.** Any municipal debentures, payable to bearer or to any person named therein or order, may be transferred by mere delivery. — Any municipal debenture payable to a person named therein, or to a person named therein or order, may be transferred by either general or special endorsement. When it is endorsed generally it is transferable by mere delivery. — Such transfer vests the property thereof in the holder and gives him the right to maintain an action thereupon in his own name.

**988.** Any debenture may contain a stipulation to the effect that the sum annually carried to the sinking fund be, with the consent of the lender, returned to such lender or his representatives, instead of being invested in the manner provided by the by-law. In any such case the debenture is not redeemable at the delay fixed by the by-law, and it is deemed to have been paid in full and discharged by the payment of the annual amount of the interest and of the sinking fund specified in such debenture.

**989.** The council of any corporation which, either before or after the coming into force of this code, issued debentures redeemable at the expiration of a certain delay, may, with the consent of the holder, exchange the same for debentures of equal value, payable in the manner set forth in the preceding article.

**989a.** The corporation of any municipality, which has issued debentures and which has been unable to invest the sinking fund intended for their ultimate redemption, may, in order to provide for the payment of any balance due on such debentures at their maturity, borrow on the credit of such municipality, a sum sufficient to pay such balance.

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less than five years thereof. The council may, after five years, authorize the mayor or warden to execute an obligation to cover such loan, which shall stipulate for its payment by annuities extending over a period not exceeding twenty years and the last of which shall operate as and be a final extinguishment of the loan, or

It may authorize the warden or mayor to sign and execute as many obligations as there are years in the period during which the payments are to be made (and which shall not exceed twenty) each for an aliquot part of the loan with annual interest at a rate not exceeding six per cent; the first of which shall be payable in one year from the date of its execution, the second in two years, and so continuing during the stipulated term of years.

The sum required to make said annual payments, with the interest on the outstanding debt, shall be levied, collected and paid each year, being based upon the valuation roll in force at the time of such appointment. (53, V., c. 64, s. 3).

**990.** The secretary-treasurer of any corporation, the council whereof has passed a by-law for the purpose of raising money by the issue of debentures, must before the negotiation, sale or promise of sale thereof, transmit to the registrar of the registration division in which such municipality is situated, and to the provincial secretary an authentic copy of the by-law authorizing the issue of the debentures, together with a return showing:—1. The nature and objects of such by-law;—2. The amount to be borrowed thereunder;—3. The number of debentures to be issued;—4. The amounts thereof respectively;—5. The dates at which the same respectively fall due;—6. The value of the moveable and immoveable property belonging to the corporation;—7. The amount of the privileges and hypothecs to which the property of the corporation is subject;—8. The amount of the valuation of the taxable property in the municipality;—9. The annual rate of assessment in the dollar required to liquidate the debentures. (*R. S.* 2., art. 6205.)

**991.** The secretary treasurer of every corporation which, before the promulgation of this code, shall have issued debentures without complying with the two first sections of chapter eighty-four of the consolidated statutes of Canada, must transmit, within three months after the coming into force of this code, to the registrar of the registration division in which the municipality is situated, authentic copies of all the by laws theretofore made for the purposes of raising money by the issue of debentures, together with a return shewing;—1. The nature and object of each by-law authorizing or ordering an issue of debentures;—2. The amount of the debentures issued;—3. Their respective amounts;—4. The sums already paid or redeemed by the corporation on account of such debentures;—5. The balance due and payable on each of the same;—6. The dates at which they respectively fall due;—7. The annual rate of assessment necessary to discharge them;—8. The value of the moveable or immoveable property belonging to the corporation;—9. The amount of the privileges and hypothecs to which the immoveables of the corporation are subject;—10. The amount of the valuation of the taxable property of the municipality.

**992.** The registrar must receive, file and keep in his office, the by-laws which are transmitted to him in virtue of the two preceding articles, and register them in a book kept for that purpose.

**993.** The by-laws and returns, registered or filed in the registrar's office, and all his books of entry are open to the examination of any one desiring to inspect the same during office hours, on payment of the fees established by the following article.

**994.** The following fees are payable to the registrar for any services required by the articles of this section:—1. For the registration of an authentic copy of any municipal by-law, \$2.00;—2. For the registration of any report transmitted under articles 990 and 991, \$1.00;—3. For search, inspection and examination of each copy of a by-law, of the entries which refer thereto, \$1.00.

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**995.** Every secretary-treasurer who neglects or refuses to comply with article 990 or 991, within the required time, incurs a penalty not exceeding two hundred dollars, and in default of payment, imprisonment until payment of the fine and costs, which imprisonment ends on payment of the fine and costs, and must not, however, in any case exceed twelve months.

**996.** In any action upon a municipal debenture, it is neither necessary to allege nor prove the notices, by-laws, statutes and other proceedings, in virtue of which such debenture was issued.

**997.** Every municipal debenture, issued under a by-law approved of by the lieutenant-governor in council, whether before or after the coming into force of this code, is valid, and the amount thereof may be recovered in full, notwithstanding that such debenture was issued illegally and irregularly.

## TITLE XI.

### SALE OF LANDS LIABLE FOR MUNICIPAL TAXES IN DEFAULT OF PAYMENT.

#### CHAPTER I.

##### SALE AND ADJUDICATION OF LANDS.

**998.** The secretary-treasurer of every county council must, before the eighth day of the month of January in each year, from the statements transmitted to the office of the council under article 373, and from the statement made by himself in virtue of article 941a, prepare a list showing:—1. The description of all the lands situated in the county municipality, on account of which municipal or school taxes are due, together with the names of the owners as mentioned in the valuation roll;—2. Opposite the description of such lands, the amount of the taxes for which they are liable.—Such list is accompanied by a public notice setting forth that such lands

are to be sold at public auction, at the place where the sessions of the county council are held, on the first wednesday of the month of March following, at ten o'clock in the forenoon, in default of payment of the taxes for which they are liable and the costs incurred. (*R. S. Q.*, art. 6206 as amended by 52 Vict., cap. 54, s. 22). (1)

**999.** The list and the notice which accompagnies it must be published in the ordinary manner, and also twice in the Quebec Official Gazette, and in one or more newspapers, during the month of January.—The notices given in the month of January 1889, in virtue of article 999 of the said code announcing the sale for the first wednesday or for the first thursday of March, are valid to all intents and purposes; but such sales must take place on the first thursday of March 1889. (Amended by 52 Vict., cap. 56, s. 7.)

**1000.** At the time appointed for the sale, the secretary-treasurer of the county council, or some other person acting for him, sells to the highest bidder those lands described in the list upon which taxes are still due, after making known the amount to be raised on each of such lands, including therein a part of the costs incurred for the sale, according and in proportion to the amount of the debt and of the disbursements that shall have been made to provide for the sale of each of said lots. — In all proceedings had and adopted to effect

(1) *Held*: That the claim of a corporation is extinguished toward the debtor by the sale by an official assignee of the property affected. *Blain vs. Corporation of Granby*, 5 R. L. 180.

*Held*: That a corporation can be called in a case to guarantee a rate-payer whose property it had sold, for taxes which had been paid, when this rate-payer who has transferred the same property to a third party is himself called to guarantee by his purchaser who is troubled in his possession by the party who purchased from the corporation and that even more than two years after the municipal auction sale. *Wurtele vs. Corporation of the Township of Grantham*, 6 R. L. 548.

*Jugé*: Que la corporation locale et la corporation du comté sont toutes deux, responsables, conjointement et solidairement, des irrégularités commises par le secrétaire-trésorier de la corporation du comté dans les procédés pour la vente des terrains affectés aux taxes municipales, à défaut de paiement. (*Atkin vs. La cité de Montréal et la corporation du comté d'Hochelaga*, 14 R. L., 696.

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(1) *Held*: That the president, adverse non-resident, is liable after being troubled by the county corporation since the time of the sale. *Held*: That the M. C. for the time of the sale of the land had the owner had the land. — *Armstrong vs. Municipalité de la ville de Québec*, 7 L.

*Jugé*: Que la municipalité pour le paiement de la vente des terrains affectés aux taxes municipales, à défaut de paiement, est responsable et au partage de la construction, 7 L.



such sale, the county corporation shall not be responsible for the errors and informalities committed by local municipalities against which alone shall third parties have recourse. (*R. S. Q.*, art. 6207 et 52 V., c. 52, s. 21.)

**1001.** Any person offering then and there to pay the amount of the moneys to be raised together with the costs for the smallest portion of such lands, becomes the purchaser thereof, and such portion of the land must be at once adjudged to him, by the secretary-treasurer who sells such portion of the property as appears to him best for the interest of the debtor. (1)

**1001a.** The secretary-treasurer is entitled to ten cents for each hundred words or figures, for all notices, lists and other documents in relation to the sale of lands indebted for taxes, and further to the repayment of any sum advanced by him to defray the cost of publication in the Quebec Official Gazette and in other newspapers, and to one dollar and fifty cents for each certificate of adjudication and for every deed of sale, in addition to the costs of the registration thereof, until such time as such fees are otherwise established by a resolution of the county council. (*R. S. Q.*, art. 6208.)

(1) *Held*: That the sale for municipal taxes of lots belonging to a resident, advertised and sold by the defendant as belonging to a non-resident, is null and confers no rights to the purchaser. The latter being troubled, has right to call the local corporation and the county corporation to guarantee him, even after two years have elapsed since the date of the sale; the two corporations pleading themselves this nullity must be condemned as *garantes* to pay the costs, each one half.—*Bartley vs. Boon and Armstrong, Opposants*, Q. L. R. 33.

*Held*: That the sale of immoveables made under the authority of the M. C. for the payment of taxes will be declared null: 1. If at the time of the sale the land-owner is insolvent and his properties are in the hands of an assignee; 2. If at the time of the sale a land owner had taken proceedings in licitation to sell and divide the lands.—*Armstrong vs. Building Society, &c.*, 7 L. N. 51.

*Jugé*: Que, la vente d'immeubles faite sous l'autorité du code municipal pour le paiement des taxes sera déclarée nulle: 1° Si au moment de la vente le propriétaire était en faillite et ses biens remis entre les mains d'un syndic; 2° Si au moment de la vente un co-propriétaire avait pris des procédés en licitation pour arriver à la vente et au partage des dits immeubles. *Armstrong vs. La société de construction*, 7 L. N., 51.

**1002.** The purchaser of any land or portion of land must pay the amount of his purchase money immediately upon the adjudication thereof.—In default of immediate payment, the secretary-treasurer either at once puts up the land for sale or adjourns the sale to the following or any other day within eight days, by giving all persons present notice of such adjournment in an audible and intelligible voice.

**1003.** If at the time of the sale no bid is made, or if all the lands advertised cannot be sold on the first wednesday in March, the sale must be adjourned to the following or any other day within eight days, in the manner set forth in the last provision of the preceding article. (*R. S. Q.*, art. 6209).

**1004.** On payment by the purchaser of the amount of his purchase money, the secretary-treasurer sets forth, in a certificate made in duplicate and signed by himself, the particulars of the sale, and delivers a duplicate of such certificate to the purchaser. — The purchaser is thereupon seized and possessed of the land adjudged, and may enter into possession thereof, subject to the same being redeemed within the two years next following, and to the constituted ground rents.— The purchaser, however, cannot carry off timber from such land during the first year he is in possession thereof. (*Id.*, art. 6210).

**1005.** The corporation of the local municipality, in which the immoveables put up for the sale are situated, may bid at the sale of such immoveables and may become the purchaser thereof, through the mayor or other person authorized by the council, without being held to pay forthwith the amount of the purchase money.

**1006.** A list of lands sold under the provisions of this title, setting forth the name and residence of the purchaser and the price of the sale, must be transmitted by the secretary treasurer of the county council to the office of every local municipality in which such lands are situated, within the fifteen days next after the adjudication; and the secretary-treasurer of the local council must, without delay, give a special notice to the proprietors or occupants of such lands, of the sale thereof

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**1006a.** The secretary-treasurer of each county council shall, within eight days after the adjudication thereof, transmit to the registrar, a list of lands sold for taxes under the provisions of this code; and for such purpose he is entitled to twenty cents for each piece of land mentioned in the list furnished by him, of which one half is transmitted by him to the registrar with the list to cover the fees of the latter for the deposit and entry and for the cancellation thereof. — The omission to forward such list or to mention any lot therein does not invalidate any proceedings in the matter in which such omission may occur, but the secretary-treasurer in default is responsible for all damages which result therefrom. (*R. S. Q.*, art. 6211.)

**1007.** If within two years from the day of the adjudication, the land adjudged has not been brought back or redeemed, according to the provisions of the following chapter, the purchaser remains the irrevocable proprietor thereof.

**1008.** Such purchaser, upon exhibiting the certificate of his purchase and upon proving the payment of all municipal taxes which, in the meantime, have become due thereon is entitled, at the expiration of two years' delay, to a deed of sale from the corporation of the county municipality within the limits of which such land is then situated.

**1009.** The deed of sale is executed in the name of the corporation of the county, by the secretary-treasurer, in the presence of two witnesses who sign it, or in minute form before a notary. (*R. S. Q.*, art. 6212).

**1010.** The deed of sale must be registered with due diligence, on the demand of the warden or of the secretary-treasurer. (1)

(1) *Held:* 1. That the deed of municipal sale must not only be registered, but that the purchaser must also take possession of the property.—2. That the purchaser from an original proprietor who has taken possession of the property and has had registered his deed of sale shall not be troubled in the property, possession and usage

**1011.** The costs of the deed of sale and of the registration thereof, are payable by the purchaser, and are exigible before the deed is signed.

**1012.** All the right acquired by the purchaser pass to his heirs or legal representatives.

**1013.** The sale made under the provisions of this chapter is a title which conveys the ownership of the land adjudged.—It vests in the purchaser, all the rights of the original owner and purges the land from all privileges and hypothecs whatsoever, to which it may be subject, except claims for constituted ground rents, for seigniorial dues and for rents substituted therefor, and the amounts for which such land may be encumbered for the payment of municipal debentures issued in aid of railways and other public undertakings; and except also, the rights of trustees for the amount of any assessment imposed on such land for defraying the cost of building or repairing any church, vestry, parsonage or cemetery, provided that at least eight days before such sale, the chairman of the trustees has lodged with the secretary-treasurer of the county, whose duty it is to make such sale, a statement attested under oath before a justice of the peace, establishing the amount of such assessment for which the land is liable.—In all cases, however, in which the land in question has been adjudged and sold before the issue of the letters-patent from the crown, such sale merely vests in the purchaser the right of pre-emption or other rights already acquired in relation to such land. (*R. S. Q.*, art. 6273).

**1014.** If the land sold does not exist the purchaser is merely entitled to recover the sum paid by him, with interest at the rate of fifteen per cent, per annum —If the adjudication or sale is declared null on any demand brought to set aside the same or in any other cause or contestation, the purchaser can only exact repayment of the purchase money paid by him, together with the expenses of necessary repairs and of improvements

thereof by a purchaser, at a municipal sale, who has not had his title registered and has not taken possession of the property.—*Cayave. Pellerin*, II R. L. 44.

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which have increased the value of the land up to such value, unless he prefers to remove the same, with interest upon the whole amount reclaimed at the rate of fifteen per cent. per annum.

**1015.** The action to annul a sale of land made in virtue of the provisions of this chapter, or the right of calling in question the lawfulness thereof, is prescribed by two years from the date of such adjudication.—This right may be exercised by the creditor before any competent court in any manner which he deems desirable, article 100 of this code to the contrary notwithstanding (1)

**1016.** If any land described in the list published under article 999 is advertised to be sold by the sheriff, the secretary-treasurer of the county council cannot sell such land, but must, without delay, transmit to the sheriff a statement of the sums due for taxes and cost of advertising on account of such land, which sums are paid out of the proceeds arising from the sale made by the sheriff, such costs incurred by the secretary-treasurer

(1) *Jugé* : Que la prescription de deux ans, pour le rachat de terres vendues pour taxes municipales, court à compter de l'adjudication, et non de l'acte de vente ; que cette prescription ne court qu'en faveur de l'adjudicataire et non en faveur des corporations qui provoquent ou font la vente et qui sont toujours tenues, après comme avant les deux années, des dommages résultant des ventes faites illégalement. La corporation du comté d'Arthabaska et al. et Barlow. 1 R. L., 759.

*Jugé* : Que la corporation locale qui fait vendre des terrains pour taxes etc., et la corporation de comté qui les vend, à sa demande, sont également responsables et garantes vis-à-vis de l'adjudicataire, des illégalités et des erreurs de leurs secrétaires-trésoriers respectifs, et que, lorsque les deux corporations admettent ces irrégularités et que la corporation de comté dépose le prix d'adjudication en cour, la vente peut être annulée, même après les deux ans écoulés depuis la date de l'adjudication ; que les corporations n'ont pas droit à l'adjudication requis par l'article 22 C. P. C., quoique des dommages soient demandés par les conclusions d'une action en garantie. Bartley vs. Boon. 19 L. C. J., 10.

*Jugé* : Qu'une corporation municipale peut être poursuivie en dommages pour irrégularités dans la vente des immeubles par lesquelles la vente est déclarée nulle et que ce droit d'action existe après les deux années de la date de la vente nonobstant les dispositions de l'article 1015 C. M. La Corp. du comté de Beauce et La corporation du comté de Linière. 19 L. C. J. 10.

are privileged and rank with municipal and school taxes.—(52 V. c. 51, s. 22.)

**1017.** Nevertheless if on the first monday of March the proceedings of the sheriff on the sale have been discontinued, the secretary-treasurer may sell the land in the usual manner.

**1018.** The municipal corporation, in the interest of which the sale of any land by the secretary-treasurer of the county ought to be made, may, in the case in which such land is advertised to be sold by the sheriff, and the proceedings are suspended, intervene in the cause and ask and obtain the adoption of any step having for object the rendering of any final judgment.

**1019.** The demand to set aside or to annul the sale made in virtue of these provisions, and any action to enforce any claim arising from such sale, can be instituted only against the municipal corporation, the council or officers of which are in default. (1)

**1020.** The sale made under the authority of the provisions of this title may be rescinded, and annulled with the consent of the municipal corporations interested, the owner and the purchaser.

**1021.** No land sold in default of payment of taxes, under the authority of the provisions of this title, can be resold under the authority of the same provisions in the month of March of the following year.

## CHAPTER II.

### REDEMPTION OF LANDS ADJUDGED.

**1022.** The owner of any land sold under the provisions of the preceding chapter, may, within the two

(1) *Jugé*: Qu'une corporation de comté, qui a vendu un immeuble sous les dispositions des articles 998 et suivants C. M. n'est pas responsable des irrégularités commises par la corporation locale qui les a fait vendre, lorsque tous les procédés de la corporation de comté sont réguliers et qu'il n'y a à lui reprocher aucune faute. (art. 1019 C. M.). *Brunet vs. Corporation du comté d'Hochelaga*. 16 R. L. 168.

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and school years next following the day of the adjudication, redeem the same, by reimbursing to the secretary-treasurer of the council of the municipality in which such land is situated, the amount laid out for the purchase of such land, including the cost of the certificate of purchase and the notice to the registrar, with interest at fifteen per cent per annum, every fraction of a year to be reckoned as a year. (*R. S. Q.*, art. 6214).

**1023.** Any person, whether authorized or not, may redeem or recover such land in the same manner, but only in the name and for the benefit of the person who was the proprietor thereof at the time of the adjudication — When the redemption is made by a person not specially authorized, the secretary treasurer in the receipt which he gives in duplicate, sets forth the names, quality and domicile of the person who effected the redemption.—Such receipts entitles the person mentioned therein to be reimbursed the amount paid by him with interest at the rate of eight per cent, and secures him a privileged hypothec, ranking next after municipal taxes, on the land in question for the reimbursement of such money, after being registered in the proper registration division, any provisions contained in article 1994 and 2009 of the civil code to the contrary notwithstanding. (1)

**1024.** The secretary-treasurer, must, within seven days after the redemption is effected, give a special notice thereof to the council of the local municipality, in which such land is situated and to the purchaser, and on demand, remit to the latter the amount paid into his hands, less two and a half per cent, on the purchased money, for his fees.

(1) *Jugé*. Que lorsqu'une propriété a été vendue pour des taxes municipales, une personne qui n'est pas le propriétaire, qui la retraits et est subrogée dans les droits de l'acheteur, fait néanmoins ce retrait pour l'avantage du propriétaire actuel; qu'il ne peut, après l'expiration des deux ans, refuser de remettre la propriété au propriétaire; que le propriétaire ne peut cependant le forcer à lui remettre la propriété sans lui offrir le prix payé pour le retrait avec 15 par cent par année d'intérêt sur icelui. *Darling vs. Reeves*, 29 L. C. J., 255.

**1025.** The purchaser may compel the owner or the person who redeems the land in the name of the owner, to indemnify him for all useful repairs and improvements made by him on the land so redeemed, unless he removes the same, and also to reimburse him the amount of the taxes paid, and of the public or municipal work performed on account of such land, with interest on the whole at the rate of fifteen per cent, per annum, every fraction of a year being reckoned as a year.—This claim bears a privilege in favor of the purchaser upon the land in question.—The purchaser may retain possession of the land redeemed until payment of such claim.

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# BOOK THIRD.

## SPECIAL PROCEEDINGS.

### TITLE I.

#### EXECUTION OF JUDGMENTS RENDERED AGAINST MUNICIPAL CORPORATIONS.

**1026.** Whenever a copy of judgment, condemning a municipal corporation to pay a sum of money, has been served at the office of the council of such corporation, the secretary-treasurer must forthwith pay the amount thereof out of the funds at his disposal, on the authorization of the council or of the head of the council according to the rule laid down in article 160. (1)

**1027.** If there are no funds, or if those at the disposal of the secretary-treasurer, are not sufficient, the council must, immediately after the service of the judgment of the court, order the secretary-treasurer, by a resolution, to levy on the taxable property of the municipality liable for such judgment, a sufficient sum to pay the amount due with interest and costs.

**1028.** The court which rendered the judgment may, on petition, presented either in term or in vacation, grant from time to time, to the municipal council, any delay which it deems necessary to levy the amount of money required.

(1) *Jugé*: Qu'une corporation de comté, contre laquelle un jugement a été rendu, n'est pas tenue de payer le montant de ce jugement, sur ses biens, mais que le montant de ce jugement doit être prélevé, par le shérif, sur les biens des contribuables des municipalités locales, conformément aux articles 1026 et suivants. La corporation du comté de Drummond *vs.* Quesnel, et Quesnel, demandeur en gar. *vs.* la corporation des Chutes de Kingsey, défendeurs en gar. et appelante *vs.* Quesnel, 19 R. L., 470)

**1029.** If the judgment has not been satisfied within two months after the service thereof at the office of the council, or at the expiration of the delay granted by the court or agreed upon by the parties, the person in whose favor such judgment was rendered, or his attorney, may, on producing the return of the service of such judgment at the office of the council, and on a requisition in writing for such purpose, obtain the issue of a writ of execution from the court against the corporation in default, returnable before the same tribunal, so soon as the amount of the judgment and costs has been levied.

**1030.** Such writ is attested and signed by the clerk or prothonotary sealed with the seal of the court, and addressed to the sheriff of the district in which such municipality is situated, who is enjoined by the same among other things;—1. To levy from the corporation, with all possible despatch, the amount of the debt with interest and costs of the judgment as well as of the execution;—2. In default of immediate payment of the corporation;—To apportion the sums to be levied on all the taxable property in the municipality liable for such judgment, in proportion to its value as it appears by the valuation roll, with the same powers and obligations, and under the same penalties as the councils and the secretary-treasurer to whom he is by right substituted for the levying of such money;—If the judgment has been rendered against a county corporation, to make forthwith an apportionment on all the local corporations of the county, and to transmit immediately a copy to the office of the council of each of such corporations;—To prepare without delay, and at the same time as the apportionment in the case mentioned in the preceding provision, according to the rules prescribed by article 955, a special collection roll for each local municipality in which money must be levied under the authority of such writ;—To publish such special roll in the municipality, in the manner required by article 960;—To exact and levy the amounts entered on the special collection roll, in the manner and within the delay pres-

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scribed by articles 960 and 961;—In default of the payment of such amounts by the persons who are bound so to do, to levy the same with costs, on their moveable property, in the manner prescribed by articles 962 to 970 inclusive;—To sell the real estate liable for such amounts in default of their payment, on the first monday of the following march, in the manner and according to the rules laid down in the foregoing title, after having given the publications and notices required by the provisions of the same title.—3. To make a return to the court of the amount levied and of his proceedings, as soon as the amount of the debt, interest and costs has been collected, or from time to time as the court may order.

**1030a.** If the judgment has been rendered on debentures or coupons issued in virtue of a by-law, made by a county council, in conformity with article 974 of this code, or to any special act to the same effect as such article, the apportionment to be made by the sheriff shall be in accordance with the terms of such by-law, and in the same proportion as the apportionment made by the county council under article 974; and in such case mention shall be made both in the judgment and the writ of execution that the county corporation has been condemned in virtue of such by law. (*R. S. Q.*, art. 6215).

**1031.** The sheriff is bound to execute without delay, either personally, or by his officers, all the injunctions of such writ, or of any other order subsequently issued by the court whose officer he still remains.

**1032.** The sheriff has free access to the registers, valuation rolls, collection rolls and other documents deposited at the office of the council of every municipality in which he must levy money, and he may demand the services of the municipal officers of such council under the ordinary penalties.

**1033.** He must take possession of all the valuation rolls and other documents, which are necessary to him in the execution of the judgment and orders of the court—On the refusal or neglect of the municipal coun-

oil or its officers to deliver up such documents, he is authorized to take possession thereof.

**1034.** If it is impossible for the seizing officer to obtain the valuation rolls, which should serve as a basis for the collection of the moneys, or if there are no such valuation rolls, the sheriff must without delay proceed to make a valuation of the taxable property liable for such judgment; and he is authorized to base the apportionment or the special roll for the collection of the moneys, to be levied on such valuation as if it were the valuation roll in force for such municipality.—The costs incurred in making such valuation are taxed by the court from which the writ issued, form part of the costs of execution, and are recoverable from the local corporation in default.

**1035.** The sale and adjudication of real estate by the sheriff, in default of payment of the amount specified in the collection roll made by him, have no other effects than those mentioned in the preceding title.—The deed of sale of the land is given by the warden of the county municipality in which such land is then situated, in the manner prescribed in the preceding title, at the expiration of two years, if the redemption of the same has not in the meantime been effected.

**1036.** The fees, costs and disbursements of the sheriff are taxed at the discretion of the judge of the court from which the writ of execution issued.

**1037.** The sheriff must transmit a copy of his special collection roll, and any other list or document whereof he has taken possession, to the office of the council to which it belongs, after having levied the whole amount set forth in the writ of execution, together with interest and costs.

**1038.** Arrears due, in virtue of the apportionment or of the special collection roll of the sheriff, belong to the corporation, on behalf of which they ought to be levied, and may be recovered by such corporation, in the same manner as any other municipal tax.—If any surplus remains in the hands of the sheriff it belongs to the corporation.

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**1039.** If the corporation, against which any judgment, has been rendered, ordering the payment of any sum of money, holds property in its own name, such property may be seized and taken in execution in the ordinary manner prescribed in the code of civil procedure.

**1040.** The sheriff may obtain from the court any order calculated to facilitate and ensure the complete execution of the writ which has been addressed to him.

**1041.** If any land advertised to be sold by the sheriff under these provisions is advertised to be sold on the same day by the secretary-treasurer of the county, the latter cannot sell the land, but must forthwith transmit to the sheriff a statement of his claims and costs, which statement must be added to the amount claimed by the sheriff and levied by him at the same time as such amount.

## TITRE II.

### RECOVERY OF PENALTIES IMPOSED IN VIRTUE OF THIS CODE.

#### CHAPTER I.

##### GENERAL PROVISIONS.

**1042.** Penalties imposed by municipal by-laws, or by the provisions of this code, are recoverable either before the magistrate's court of the county or before the circuit court of the county or district, within the limits of which they have been incurred, or before any justice of the peace residing in the municipality, if there is one, or, not, before any justice of the peace resident in a neighboring municipality in the district. (1)

(1) *Held:* That in an action instituted under arts. 398 and 1042, C., for the value of work done on a by-road, a justice of the peace, residing in a municipality other than the one where the defendant resides, has no jurisdiction, if it does not appear by the record that

**1043.** All penalties incurred by the same person may be included in the same suit.

**1044.** Whenever, under the provisions of this code or of municipal by-laws, a penalty is imposed for each day during which the same are contravened, such penalty can be recovered, for the first day only, unless special verbal or written notice has been given to the person contravening the same. If such notice is given the penalty may also be recovered for each day thereafter on which such contravention continued.

**1045.** Every suit for the purpose of recovering such penalties must be begun within three months from the date when they were incurred, after which period the same cannot be brought.

**1046.** Such prosecution may be brought by any person of age in his own name, or by the head of the council in the name of the municipal corporation. (1)

there is no justice of the peace in the municipality where the defendant resides. Lambert & Lapalisse, 6, R. L., 65.

*Jugé :* Que toute action pour le recouvrement de taxes ou contributions municipales doit être portée, soit devant la Cour Supérieure, soit devant la cour de circuit suivant le montant en litige, le code de procédure civile ne contenant aucune disposition exceptionnelle à l'égard de ces dites taxes comme celles qu'il contient au sujet des taxes scolaires et des contributions pour la construction et réparation des églises et presbytères. Que la juridiction donnée par les articles 401 et 1042 du code municipal, à la cour de circuit, à la cour du magistrat ou à un juge de paix, en matière de recouvrement, du coût des travaux de voirie, n'est pas exclusive de la juridiction de la cour supérieure. Corporation d'Irlande Nord et Mitchell. 13 Q. L. R., 32.

(1) *Held :* 1. That under art. 1046, M. C., as well as under s. 64, c. 29, O. S. L. C., it is not an action *qui tam*, but a popular action, which may be instituted by any person of age, in its own name, or by the head of the council, in the name of the municipal corporation; 2. That it is by exception to the form that is to be met an action alleged to have been taken in the name of one in whose name it should not have been taken, and not by demurrer as made in the present case; 3. That the fine and damages cannot be claimed in the one and same action, because these grounds of demand tend to condemnations of different nature. Labelle vs. Gratton, 7 R. L., 325.

*Held :* That a law suit for the recovery of fines imposed by art. 440 M. C., and instituted by a private person, must be taken as well in the name of the plaintiff as in the name of the corporation. Robert vs. Doutre, 5 R. L., 400.

*Held :* 1. That the plaintiff *qui tam* who claims a fine for violation

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**1047.** Any suit brought in virtue of the provisions of this title may be decided on the oath of one credible witness.

**1048.** Penalties recovered in virtue of municipal by-laws or the provisions of this code, belong, unless it is otherwise provided, one-half to the prosecutor and the other half to the municipal corporation.—If the prosecution has been brought in the name of the corporation, the penalty belongs wholly to the corporation.—If the penalty is due by the corporation, it belongs wholly to the prosecutor. (1)

**1049.** In default of payment of the fine inflicted by the court and the costs, within fifteen days from the rendering of the judgment, the property of the person so condemned is seized and sold, up to the amount of the penalty and costs; and in default of property sufficient, the person condemned must be imprisoned for any time not exceeding thirty days, which imprisonment ends, however, on payment of the sum due.—Such imprisonment discharges the person who undergoes it from the obligation of satisfying the judgment against him. (*R. S. Q.*, art. 6216).

**1050.** The plaintiff or the complainant, whose demand or complaint has been dismissed with costs, is

of the municipal act, in virtue of s. 63, § 38, must sue as well in his own name as in that of the municipality; 2. That any one has the right of instituting such action *qui tam* without being obliged of obtaining the previous authorization of the municipality; 3. That a defendant in an action *qui tam* cannot be heard as a witness against himself, and that if he be heard, his evidence will be set aside and the Court will not look at it. *Lami vs. Rabouin*, 1 R. L., 687.

*Held*: That when the fine belongs for half to the municipality and to the plaintiff, the latter is bound to sue as well in his own name as in the name of the corporation. *Houle vs. Martin*, 6 R. L., 341.

(1) *Held*: That the words "*municipal corporations*" are a general expression used by art. 1048, to prevent any confusion between these corporations and the municipal corporations or others, and that the only legal name of these municipal corporations is "the corporation of the parish of *Graham vs. Morissette*. 5 Q. L. R., 346.

*Held*: That he who sues *qui tam* must do so as well in his own name as in the name of the corporation to whom belongs a portion of the fine. *Graham vs. Morissette*. 5 Q. L. R., 546.

bound to pay the costs, under penalty of seizure or of imprisonment, in the manner and within the delay prescribed in the preceding article. (*Id.*, art. 6217).

**1051.** Articles 1045, 1046, 1048, 1049 and 1050 do not apply to suits brought to recover moneys which, according to the provisions of this code, may be recovered in the same manner as the penalties imposed by this code.

## CHAPTER II.

### OF PROSECUTION BEFORE JUSTICES OF THE PEACE.

**1052.** Prosecutions brought before justices of the peace, in virtue of article 1042, are heard and decided by them, according to the usual rules of procedure laid down respecting summary orders and convictions, except in so far as the same are inconsistent with the provisions of this title.

**1053.** Such suits need not be begun by the affidavit or deposition on oath of the plaintiff or complainant, provided always that the purport of the complaint or demand is sufficiently set forth in the writ or in a declaration annexed thereto.

**1054.** The record of every suit must be remitted by the person in whose custody the same is, to the justice of the peace, upon his order, in cases where there is an appeal from the judgment to the circuit court.

**1055.** There must be an interval of at least two juridical days between the day of the service of the summons and that of the return.

**1056.** On the day of the return of the summons or of the warrant, the justice of the peace who has signed the summons or the warrant may hear and decide the case alone.—He may, nevertheless require the assistance of any other justice of the peace having jurisdiction within the district.

**1057.** The returns of service made by a bailiff are given under oath of office.

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**1050.** The judgment of the court may be executed at the expiration of the fifteen days from the date thereof.

**1060.** Any constable or police officer may, and must, if he is so required by the head or by any other member of the council, or by the council itself, apprehend or arrest at sight all persons found contravening the provisions of any municipal by-law punishable by fine, if it is so ordered by the by-law, and bring them before any justice of the peace to be dealt with according to law.

### TITLE III.

#### APPEALS TO THE CIRCUIT COURT.

**1061.** An appeal lies to the circuit court of the county or of the district :—1. From every judgment rendered by justices of the peace, in suits brought under the provisions of this code or of municipal by-laws ;—2. From every decision given by a county council respecting any *procès-verbal* made and homologated or any act of apportionment amended under the authority of such council, sitting otherwise than in appeal ;—3. From every refusal to homologate a *procès-verbal* by a county council, sitting otherwise than in appeal ; and from the dismissal, by any county council or by its superintendent, of any petition requiring the opening, construction, enlarging, altering or maintenance either of a road, bridge or water-course which is or should be under its jurisdiction.—4. From any decision given by a local municipal council in virtue of articles 734, 738, 746 and 746a respecting a valuation roll, whether the decision be rendered by the council, of its own motion, or on complaint against the roll produced before it ;—

5. Whenever a local municipal council has neglected or refused to take cognizance of any written complaint made in virtue of article 735, or to obtain the revision and the amendment of the valuation roll in conformity with articles 746 and 746a within thirty days after the expiration of the delay in which it might have taken cognizance thereof.—The costs of appeal are taxed at the discretion of the judge, for or against such of the parties, municipal corporation or councillors personally, as he shall deem advisable under a writ of execution issued in the usual manner. (*R. S. Q.*, art. 6218). (1)

(1) *Held* :—That an appellant under article 1061 of the M. C., as amended by 39 Vict., c. 29, s. 23 cannot examine fresh witnesses in support of the appeal. *Giroux vs. Corporation of St-Jean Chrysostôme*, 5 Q. L. R., 97.

*Held* :—1 That the appeal taken before the circuit court of the decision given by a county council, concerning its *procès-verbal* made and homologated under the authority of the council, must be taken against the interested parties requesting such *procès-verbal*, and not against the corporation of the county, unless the council has acted *proprio motu*; 2. That in this case it is the interested parties who signed the petition asking the action of the council, that should have been put in cause in the appeal, and not the county corporation, who had only exercised judicial functions by its council. *Corporation of Pointes-aux-Trembles vs. Corporation of Hochelaga*, 7 L. N., 158.

A resolution of a county council rescinding a *procès-verbal* is not a "decision" within the meaning of art. 1071 M. C., from which an appeal lies to the circuit court. *Woodward vs. Corporation of Richmond*, 7 L. N., 71.

*Held* :—1. That an appeal cannot be taken before the circuit court according to the dispositions of art. 1061, of a decision of a county council, relative to a *procès-verbal* adopted by a local council and homologated by said county council sitting in appeal; 2. That even supposing, in such case, that the want of jurisdiction of the circuit court would not be invoked, this court should dismiss the parties, by reason of its complete want of jurisdiction; 3. That on appeal of the decision concerning the *procès-verbal* in question, the respondents requiring this *procès-verbal* are interested to have it maintained, and that under art. 1061 they should be put in cause, and copy of the writ of appeal should be served upon them or on their attorney; 4. That when the county council is sued as in this case, he has the right to appear as well to defend itself as to support its decision. *Viau vs. Corporation of Longue-Pointe*, 8 L. N., 110.

*Jugé* : Qu'une corporation municipale n'a pas le droit de confesser jugement sur une requête à l'effet d'appeler d'une décision du conseil, par laquelle certains noms étaient retranchés de la liste des électeurs. Que dans le cas où le conseil prend sur lui de réviser et corriger

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**1062.** The right of appeal also exists from every decision given by a board of delegates under any form whatever, to the circuit court of the county sitting in one of the counties, the corporation whereof the delegates represent or to the circuit court of the district. If the municipalities represented by the delegates are situated in more than one district, an appeal may be brought to the circuit court of any of such districts.

**1063.** The word "judgment," employed in the following provisions of this title, includes also the decision, rendered by a municipal council or by a board of delegates, the dismissal by any superintendent of a county council of a petition, or the neglect or refusal of a local municipal council in the case mentioned in article 1061, (*R. S. Q.*, art. 6219).

**1064.** The party who desires to appeal therefrom must within thirty juridical days after the judgment is rendered: — 1. Give an ordinary notice of such intention to the justice of the peace, or to one of the justices of the peace, who rendered such judgment, or to the clerk, or at the office of the municipal council, if any municipal council is in question, or to the secretary of the board of delegates, if the appeal is from a decision of such board. — 2. Furnish, before the clerk of the court where the appeal is brought, good and sufficient security to effectively prosecute the appeal, to satisfy the judgment and to pay the damages awarded, and cost incurred, as well of the inferior court, the council or the board of delegates, as in appeal, in the event of the judgment being confirmed (*Id.*, art. 6220). (1)

la liste, sans qu'il y ait eu plainte, ce n'est pas un appel qu'on doit prendre, mais une procédure en cassation.

Qu'une requête en appel doit être présentée dans les quinze jours après la révision des listes, et que, ce délai expiré, le juge en chambre est incompetent *ratione materiae*. *Leclerc vs. La corporation de St-Jean Port Joli*. 14 R. L., 313.

(1) *Jugé*: 1° Lorsque l'appelant ne fournit pas le cautionnement voulu par l'article 1014 C. M. et omet de se conformer à toutes les exigences du dit article en la manière y déterminée, la partie adverse devra s'en prévaloir *in limine litis*; 2° Qu'une motion présentée lors de

**1065.** Sureties must to the satisfaction of the clerk, justify their sufficiency, to the amount of at least one hundred dollars, over and above all debts, and under oath, if the clerk deems proper.—One surety is sufficient.

**1066.** The appeal is brought before the court by means of a writ of appeal, signed by the clerk, setting forth that the appellant complains of having been aggrieved by the judgment appealed from, and commending the justice of the peace or one of the justices of the peace, by whom such judgment was rendered, or their clerk or the secretary-treasurer of the council, if the decision of any municipal council is in question, or the secretary of the board of delegates if the appeal is from a decision of such board, to transmit the record in the cause. (*R. S. Q.*, art. 6221).

**1067.** A copy of the writ of appeal certified by the clerk or by the appellant's advocate, together with a notice of the day when it shall be presented to the court, must be served, within the thirty days next after the rendering of the judgment, on the respondent or his advocate, and on the justice of the peace or on one of the justices of the peace who rendered the judgment, or on their clerk, or at the office of the municipal council, if the decision of a municipal council is in question, or on the secretary of the board of delegates, if the decision of such board is in question. (*Id.*, art. 6222). (1)

**1068.** Between the day of such service and that

*l'audition de la cause demandant le rejet de tel appel à cause des susdites informalités sera renvoyée comme inopportune. La corporation de Ste-Philomène vs. La corporation de St-Isidore, 29 L. C. J., 240.*

(1) *Held:* That the writ of appeal, under art. 1067 M. C., from a decision of a board of delegates homologating a *procès-verbal*, need not be served on the parties who petitioned for the work ordered. *Oantwell vs. The Corporation of the County of Chateauguay, 23 L. C. J., 263, § 1.*

*Held:* That the formalities of the notice and bond, like the service of the writ required by art. 1067, are imposed in the interest of the respondent alone; the latter can exempt the appellant, if he pleases, either formally or tacitly by his silence or by not invoking in proper time the want of these formalities, by motion or preliminary objection. *Corporation of Ste-Philomène vs. Corporation of St-Isidore, 29, L. C. J., 240.*

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fixed for presenting the petition in appeal to the court, the justices of the peace, or the secretary-treasurer or secretary, as the case may be, must transmit the record in the case to the clerk of the circuit court, with a certificate testifying that the documents transmitted are all the papers, documents and evidence relating to the case.

**1069.** The execution of the judgment from which an appeal has been instituted is suspended until the decision of the circuit court, if a copy of the writ of appeal has been served, within the prescribed delay, upon the justices of the peace, or upon their clerk, or at the office of the council if the appeal is from a decision of a county council, or upon the secretary of the board of delegates, if one of their decisions is in question; in default thereof the judgment may be carried into effect.

**1070.** The writ of appeal must be returned to the circuit court on or before the first juridical day of the term following the expiration of the forty days after the judgment was rendered, in default thereof the appeal lapses.—The appellant must produce on the day of the return of the writ of appeal, together with a return of the bailiff establishing the necessary services, a petition setting out summarily the title of the cause, the date of the judgment, the notice given, the security furnished, the grounds of appeal, with conclusions praying for the setting aside of the judgment and for the rendering of that which ought to be rendered. (*R. S. Q.*, art. 6223).

**1071.** The appeal is heard and determined in a summary manner. In no case can new witnesses be heard or fresh evidence adduced unless the council or court of first instance has refused to take cognizance of the evidence offered or except when the appeal is from a decision of a county council or a board of delegates, 68 Vict., c. 64, s. 11).

**1072.** The judgment can be set aside only when a substantial injustice has been committed, and never by reason of any trifling variance or informality.—If objections are raised which do not affect the merits of the

cause, the court may amend the procedure, which is thereupon executed as though it had been regular in the first instance. (1)

**1073.** If the judgment is confirmed, the record in the cause, together with a copy of the judgment deciding the appeal and a certificate of the costs allowed on the appeal, must be transmitted without delay to the court below, under the authority of which all the costs incurred, including those in appeal, are levied.—If the decision from which the appeal has been instituted has been rendered by a county council, or by a board of delegates, the costs are levied under the authority of the court which pronounced on such appeal.

**1074.** If the judgment is modified in whole or in part, the record and all the procedure remain in the archives of the circuit court, save in the case of article 1079, and the judgment pronouncing on the appeal is carried into effect under the authority of such court.

**1075.** Every appellant who neglects to make the service required by article 1067, or, who having made the same, neglects effectually to prosecute the appeal, is deemed to have abandoned such appeal, and the court, on application by the respondent, must declare all the rights and claims founded on the said appeal, forfeited with costs in favor of the respondent, and orders the transmission of the record to the court below.

**1076.** The sureties are bound to satisfy the judgment under penalty of seizure and execution, and in the

(1) *Jugé*: 1° Que la cour dans sa juridiction d'appel en matière municipale, doit considérer s'il résulte une injustice réelle de la décision dont il y a appel. (C. M. art. 1072).

2° Que dans l'espèce, il résulte une injustice réelle des dispositions d'un procès-verbal régissant un chemin situé en entier dans une municipalité locale, en vertu desquelles les habitants d'une autre municipalité sont tenus aux travaux du dit chemin et que la décision d'un bureau de délégués maintenant en vigueur le dit procès-verbal et rejetant le rapport d'un surintendant spécial ordonnant que le dit chemin devait être considéré comme chemin local, est annulée, et que le chemin est déclaré pour l'avenir chemin local. C. M. art. 1072; 755, par. 1; 732. Larocque et al. Corporation du comté de Shefford et al. R. L., 279 et 280.

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same manner as the principal party, fifteen days after service of the judgment upon them.

**1077.** No appeal lies under the provisions of this title from any judgment rendered by any judge of the superior court, or any district magistrate, respecting municipal matters. (1)

**1078.** No judgment, decision or conviction susceptible of appeal under this title, and no judgment or conviction rendered by a district magistrate, can be removed by *certiorari* to the superior or circuit court.

**1079.** All the documents produced by the county council or by the board of delegates must be transmitted to them after the judgment in appeal is rendered, together with a copy of such judgment.

#### EXCEPTIONAL PROVISIONS.

**1080.** In the municipality of the city of Sherbrooke in the local municipalities of the counties of Compton, Stanstead, Brome, Missisquoi; in that of the county of Richmond, excluding the municipality of St. George of Windsor and in those of the county of Shefford, excluding the municipalities of the townships of Milton and Roxton; in those of the county of Huntingdon, excluding the municipality of the parish of St. Anicet, and in the municipality of the township of Leeds, except the municipality of East Leeds, if its municipal council passes a by law to that effect, in the county of Me-

(1) *Held:* That under art. 1077, M. C., there is no appeal of judgments rendered by the circuit court in municipal matters; That evocation can be made from the circuit court to the superior court, in virtue of art. 1058, C. C. P., only in cases where the appeal would be allowed under art. 1054 of said code, and that if the present case was well instituted before the circuit court, an appeal does not lie of the judgment of said court. *La Corporation du Comté de Drummond vs. La Corporation de la paroisse de St. Guillaume*, 4 R. L., 706.

*Held:* That there is no review of the decisions of the circuit court on the contestations of elections of councillors under the dispositions of the M. C. *Lacerte vs. Dufresne*, 9 Q. L. R., 190.



gantic; as well as in the municipalities of l'Avenir, South Durham, and the townships of Durham, in the county of Drummond, all works in municipal roads and bridges are executed at the expense of the corporation in the same manner as if a by-law was passed to that end under article 535.—The councils of these municipalities may, by a by-law or resolution, ordain that the tax imposed for such works be commutable into a statute labor according to a scale or tariff at a fixed rate.—The council of these municipalities may make such provisions as they deem the most equitable for the making and maintenance of the fences along municipal roads or for ordering that such fences and all those making an angle with the fences of such municipal roads, for a distance of twenty-five feet, be, during part of the year, kept down within twelve inches of the ground.—Such by-laws or orders may be put into force, as the councils may deem most equitable, either by compelling the proprietors of the adjacent lands to make such fences or to take them down as aforesaid, or in any other manner.—These provisions do not apply to quick-set hedges to picket fences or those at a greater distance than twenty five feet from the road, nor to those which cannot be taken down or replaced without great expense.—The councils of these municipalities may, by *procès verbal*, define the time during which any by-road shall be built, without it being obligatory on the corporation to build any particular part of such road in any special time. (*R. S. Q.*, art. 6224, as amended by 52 Vict., c. 54, s. 24.)

**1081.** The councils of the following local municipalities possess the functions and powers conferred upon county councils in addition to those conferred upon local councils, and they do not form part of the municipalities of the counties within which they are situated:—The municipality of l'Isle aux Coudres, in the county of Charlevoix; The municipality of Crane Island, in the county of Montmagny:—The municipality of the parish of Saint-Pierre de la Pointe-aux-Esquimaux, and the municipalities of Tadoussac, and Escoumains, in the county

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of Saguenay. — The county of Charlevoix forms two separate county municipalities, as follows: — The parishes of St. Siméon, St. Fidèle, St. Etienne de la Malbaie, St. Irénée, et St. Agnès, the townships of Callières, Chauvean, and De Sales, and the unorganized territory to the north of these parishes and townships, form a county municipality under the name of "Municipality of the first division of the county of Charlevoix;" and — The parishes of St. François-Xavier de la Petite-Rivière, Baie St. Paul, St. Urbain, Eboulements, and St. Hilarion and the unorganized territory to the north of these parishes form another county municipality under the name of the "Municipality of the second division of the county of Charlevoix;" and — The county of Chicoutimi forms two separate county municipalities as follows: — That part of the county to the north, east and south of the townships of Labarre and Plessis forms a county municipality under the name of the "Municipality of the county of Chicoutimi No. one; and — That part of the county to the west and south-west of the townships of Kenogami and Lartigues forms another county municipality under the name of the "Municipality of the county of Chicoutimi no. two." — The township of Compton does not form part of the municipality of the county of Compton. — The county of Gaspé forms three separate county municipalities, as follows: — That part of the county to the east of the municipality of St. Maxime du Mont-Louis, less the Magdalen Islands, forms a county municipality under the name of "Municipality of the county of Gaspé no. one; — The Magdalen Islands form another county municipality under the name of "Municipality of the county of Gaspé no. two;" and — The municipalities of St. Maxime du Mont-Louis, Ste. Anne des Monts and St. Norbert du Cap Chat form the third county municipality under the name of "Municipality of the county of Gaspé no. three." The county of Montmorency forms two distinct county municipalities as follows: — That part of the county, which is situate on the north shore of the river St. Lawrence forms a county municipality under the name of the "Municipality of

the county of Montmorency number one;" and—"The Island of Orleans forms another county municipality under the name of the "Municipality of the county of Montmorency number two." — The municipality of the county of Quebec comprises the county of Quebec, that part of the banlieue of Quebec which is included in the centre and west divisions of the City of Quebec, the municipality of the parish of St. Sauveur de Quebec, the parishes of Notre Dame des Anges and Sacré-Cœur de Jésus and the municipality of St. Roch north.—The county of Rimouski forms two separate county municipalities as follows:—That part of the county to the west of the township of McNider forms a county municipality under the name of "Municipality of the first division in the county of Rimouski, and, — That part of the county to the east of the seigniorie of Métis forms another county municipality under the name of "Municipality of the second division of the county of Rimouski." — The municipality of the county of Sherbrooke comprises the township of Compton and the electoral division of the city of Sherbrooke, less the municipality of the city of Sherbrooke. — The municipality of the county of St. Maurice comprises the county of St. Maurice and the electoral division of the city of Three-Rivers, less the municipality of the city of Three-Rivers. (*Id.*, art. 6225).

**1082.** The council of the municipality of the parish of St. Romuald of Etchemin possesses all the powers conferred on the council of a village municipality in addition to those of a council of a parish municipality.

**1083.** Nothing contained in this code is deemed to repeal chapter sixty two, 22-28 Victoria, conferring certain powers of a county council on the municipal council of the parish of St. Colomb of Sillery, in the county of Quebec.

**1084.** The municipality of the parish of St. Germain, in the county of Drummond, shall hereafter be known by the name of "the municipality of the parish of St. Germain de Grantham."

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**1085.**

**1086.** tutes for Lo  
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**1084a.** The municipality of the parish of St. Roch of Quebec South, shall be known as the municipality of the parish of St. Sauveur de Quebec. (*R. S. Q.*, art. 6226).

**1085.** Is repealed. (*Id.*, art. 6227).

#### FINAL PROVISIONS.

**1086.** Chapter twenty-four of the consolidated statutes for Lower Canada, and all amendments thereof:

—Every municipal act, whether special or general, and its amendments, respecting corporations and municipalities, whether of a county, of a parish, of a separated township, of united townships, of a part of a parish or township, of a village, or of a town, save and except the cities and towns exempted under article 1;—

Chapter twenty-five of the consolidated statutes for Lower Canada, chapter eighty-four of the consolidated statutes of Canada, sections seventy-five, seventy-six and seventy-seven of chapter sixty-six of the consolidated statutes of Canada, chapter eighteen of the statutes of the heretofore province of Canada, 27 28 Victoria, and chapter twenty-six of the consolidated statutes of Lower Canada, entitled: "An act respecting abuses prejudicial to agriculture" and its amendments, in so far as they relate to corporations gov-

erned by this code;—And all other laws of the province in force at the time of the coming into force of this code, and repealed in all cases:—In which

there is a provision therein having expressly or impliedly that effect;—in which such laws are contrary to or inconsistent with any provision herein contained;

—and in which express provision is herein made upon the particular matter to which such laws relate —

Except always that as regards transactions, matters and things anterior to the coming into force of this code, and to which its provisions could not apply without

having a retroactive effect, the provisions of law, which, without this code, would apply to such transactions, matters and things remain in force and apply to them,

and this code applies to them only in so far as it coincides with such provisions. (1)

**1087.** This code shall come into force on a day to be fixed by proclamation of the lieutenant-governor in council; and it shall from such period, have force and effect, any law to the contrary notwithstanding, derogating thereby from section ten of chapter seven of the statutes of Quebec, passed in the thirty first year of Her Majesty's reign, and shall be known and cited under the name of "The municipal code of the province of Quebec."

(1) *Held:* That county councils have, as well as local councils, power to pass by-laws prohibiting the sale of intoxicating liquors;—that the the ten first sections of the 27-28 Vict., c. 18. (temperance act of 1864) have not been abrogated by art. 1086, M. C. *Hart vs. La corporation de Missisquoi*, 3, R. L., 170.

*Held:* That the local corporation who orders the sale of lands for taxes, etc., and the county corporation who sells them at its demand, are equally responsible and *garantes* of the illegalities and mistakes of their respective secretary treasurers towards the purchaser. In the present case, the two corporations pleading themselves these irregularities and mistakes of the county corporation depositing in court the price of sale, the action *en garantie* of the purchaser must be maintained and the sale annulled even after the two years elapsed since the date of the sale. *Bartley vs Boon*, 19 L. C. J. 10.

The Municipal Code of the Province of Quebec has not totally abrogated the provisions of the temperance act of 1864.—*Sauvé vs. The corporation of the county of Argenteuil*, 19 L. C. J. 119.

*Held:*—1. That it is only when the law allows expressly that damages and fine can be claimed by one and same action:—That ch. 21 C. S. L. C., granting this permission, it is legal only in so far as it concerns municipalities governed by said code.—2. That it is only when the animals found straying are impounded by the pound-keeper that this matter concerns the municipalities governed by said code;—3. That the M. C., has abrogated.—4. That it is only when the animals found straying are impounded by the pound-keeper that this matter concerns the municipalities governed by said code;—5. That in any case the damages and the price can be recovered under ch. 26 by one and same action. *Daoust vs. Proulx*, 7 R. L., 317.

No. 1. Form

I, A. B., having been secretary-treasurer (may be) of this municipality, do hereby discharge and acquit the same from all judgment and a

Sworn this  
18

signed, (warden

We, A. B., O. councillors, and of this municipal well and faithful of our judg

Sworn, etc.

# APPENDIX.

## FORMS.

No. 1. Forms in connection with articles 108, 144, 174 and 306.

### OATHS OF OFFICE.

Province of Quebec,  
Municipality of

I, A. B., having been duly appointed (councillor, mayor, warden, secretary-treasurer, auditor, valuator, rural inspector, *as the case may be*) of this municipality, make oath that I will well and faithfully discharge the duties of my office, according to the best of my judgment and ability. So help me God.

Sworn this                      day of the month of  
18                      at (place) before me the under-  
signed, (warden, mayor or justice of the peace).  
J. U.

A. B.

Province of Quebec,  
Municipality of

We, A. B., C. D., E. F., G. H., having been duly appointed councillors, auditors, valuator, rural inspectors, *as the case may be* of this municipality, make oath, each of us                      himself, that we will well and faithfully discharge the duties of our office, according to the best of our judgment and ability. So help us God.

A. B.  
C. D.  
E. F.  
G. H.

Sworn, etc.

J. U. }

## No. 2. Form in connection with article 224.

## SPECIAL NOTICE IN WRITING.

Province of Quebec.  
Municipality ofTo  
Joseph B.  
(style),

Sir,

Special notice is hereby given you by the undersigned, L. M. (name and style of the undersigned,) that (the object of the special notice.)

Given this                      day of the month of                      eighteen

hundred and

L. M. (style) or                      his  
L. M.                      markaffixed in presence of N. O.  
Witness.

## No. 3. Special notice convening a special session of the council, in connection with article 126.

Province of Quebec,  
Municipality ofTo  
O. P., C. J., P. Q., M. N., etc.  
Councillors.

Gentlemen,

Special notice is given you by the undersigned, A. B., (warden, mayor or secretary-treasurer, or by the undersigned, N. O. and C. D., councillors,) that a special session of the council of this municipality is hereby convened by me (or by us) to be held at the usual place of the sittings of the council, on the                      day of (month) instant, (or next,) and that the following subjects will then be taken into consideration, viz:  
(Orders of the day.)

Given this                      day of the month of                      eighteen

A. B.                      or                      { N. O.  
(Style)                      { Councillor,  
C. D.  
Councillor.

No. 4. No

To  
O. P.  
Sir,

secretary-treasurer, or by the undersigned, N. O. and C. D., councillors, in the province of Quebec. Given this                      hundred and

No. 5. S

To  
O. P., co  
C. J., co  
P. Q., co  
R. L., co  
M. N., ve

Sir,

(style), that (object of the special notice.) Given this                      hundred and

No. 6. For

CERTIFICATE OF

I, the undersigned, certify that the following notice in writing



No. 4. Notice of adjournment of a session ; form in connection with article 139.

Province of Quebec,  
Municipality of

To

O. P.  
Councillor.

Sir,

Special notice is hereby given you, by me, N. F.,  
Secretary-treasurer, that the general (or special session of this council held on the \_\_\_\_\_ day of the month of \_\_\_\_\_  
has been adjourned from the absence of a quorum, until the \_\_\_\_\_ day of the month of \_\_\_\_\_  
by D. E. and F. G.,  
Councillors, in conformity with article 139 of the Municipal Code of the province of Quebec.  
Given this \_\_\_\_\_ day of the month of \_\_\_\_\_ eighteen hundred and \_\_\_\_\_

N. F.  
Secretary-Treasurer.

No. 5. Special notice given to several persons at once.

Province of Quebec,  
Municipality of

To

O. P., councillor,  
G. J., councillor,  
P. Q., councillor,  
R. L., councillor,  
M. N., valuator, etc.

Sir,

Special notice is hereby given you by me, N. J.,  
(style), that (object of the notice, etc.)  
Given this \_\_\_\_\_ day of the month of \_\_\_\_\_ eighteen hundred and \_\_\_\_\_

N. J.  
(style.)

No. 6. Form in connection with articles 219 and 220, 228 and 260, or 230.

CERTIFICATE OF THE SERVICE OF A SPECIAL NOTICE IN WRITING.

Province of Quebec,  
Municipality of

I, the undersigned, A. J., (style) domiciled in (domicile)  
certify under my oath of office, that I served the special notice in writing on the other side hereof (or annexed to these presents)

upon (*name of the person to whom the notice is addressed*), by personally delivering to himself a copy thereof,—or by delivering it unto a reasonable person of his domicile, or of his place of business,—or by delivering it unto R. S., his agent duly appointed, or to a reasonable person at the place of business of R. S., his agent duly appointed,—or by depositing a copy thereof, in the post office of this locality, in an envelope sealed (and registered, the postage prepaid, *as the case may be*)—or by affixing a copy thereof upon the door (or one of the doors) of his domicile, having found the doors closed, (or not having found any reasonable person in such domicile) between and o'clock in the on day of the month of eighteen hundred and

(*If the notice is addressed to and served upon several persons, describe how it was served on each person*).

In testimony whereof, I give this certificate, this day of the month of eighteen hundred and

N. J., (*style*) or N. † J.,  
his  
mark  
affixed in presence of Y. Z.,  
Witness.

#### No. 7. Form in connection with article 220.

##### CERTIFICATE UNDER SPECIAL OATH.

Province of Quebec,  
Municipality of

I, the undersigned, P. T., (*style*) domiciled in (*domicile*), being duly sworn, do depose and say: that I served the within special notice in writing (or the special notice hereunto annexed) upon (*as set forth in the preceding form*).

In testimony whereof, I give this certificate, this day of the month of eighteen hundred and

P. T., (*style*) or P. † T.,  
his  
mark  
affixed in presence of N. O.,  
Witness.

Sworn this day of 18 }  
at (*place*) before me, the undersigned, Justice }  
of the Peace (or Warden, etc.)

H. P.  
Justice of the Peace.

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## PUBLIC NOTICE.

To (the persons to whom the notice is given).  
Public notice is hereby given by N. B. (style) that (the object for which notice is given, and time and place in which the persons summoned to comply with the notice must do so).

N. B. (*style*) or N. <sup>his</sup>† B.  
mark  
affixed in presence of N O.  
Witness.

PUBLICATION OF A MUNICIPAL BY-LAW.

Province of Quebec,  
Municipality of

Public notice is hereby given by A. B., secretary-treasurer:  
That the council of this municipality, at a session (*insert here the heading of the by-law*) has passed a by-law respecting (*object of the by-law, and the day of its entry into effect, if it enters into force at a time fixed in its provisions*).

(If the by-law has been submitted for the approbation of the municipal electors and of the Lieutenant-Governor in council, add—).

And that such by-law has been submitted for the approval of the municipal electors of the municipality, and for that of the Lieutenant-Governor in council, in conformity with article of the municipal code, and has been approved by them, in the manner prescribed by the said code, to wit, by the municipal electors at a poll held on the day of the month hundred and eighteen

Given this day of the month of eighteen

N. B.  
Secretary-Treasurer.

## No. 10. Form in connection with article 102.

PUBLICATION OF ANY ORDER OF THE COUNCIL OTHER THAN A BY-LAW.

## PUBLIC NOTICE.

Province of Quebec  
Municipality ofTo the inhabitants (or other persons)  
of the municipality ofPublic notice is hereby given by A. B., secretary-treasurer, that the council has passed the following resolution: (*Insert here the whole of the resolution or order passed by the council, with its preamble.*)

Given this                      day of the month of

A. B.,  
Secretary-Treasurer.

## No. 11. Form in connection with article 220.

CERTIFICATE OF PUBLICATION OF A SPECIAL NOTICE.

Province of Quebec,  
Municipality of

I, the undersigned, N. B., (*style*) domiciled in the parish of  
(*or of the township of*                      ), certify, under my oath  
of office, that I published the within public notice (*or public notice*  
hereunto annexed) by posting up a copy thereof, at each of the fol-  
lowing places, viz: (*places where the notice was posted up.*) (*If it was*  
*read in conformity with article 324 add:* and by reading the same (*or*  
causing to be read) in a loud and distinct manner, at  
at the close of divine service in the forenoon, on  
the                      day                      being the Sunday next after the post-  
ing of such notice as aforesaid).

In testimony whereof, I give this certificate, this  
of the month of                      eighteen hundred andN. B.  
(*style*).

## No. 12. Certificate given under special oath.

Province of Quebec,  
Municipality of

I, the undersigned, N. C., (*style*), domiciled in (*domicile*), being  
duly sworn, do depose and say that I have published the public no-  
tice hereunto annexed (*or the within public notice*), by posting up  
a copy thereof at each of the following places, viz: (*places where*

the notice  
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A. B., justi

No. 13. By

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vince of Queb  
mayor of the  
the following  
parish of  
village of  
the town of  
the presidency  
in the absence

1. (*Provisio*  
2.  
3.

the notice was posted.) (If the notice was read in conformity with article 234, add: and by reading the same, or causing the same to be read in a clear and intelligible voice, at the close of divine service on the day of being the Sunday next after the day of the posting of such notice as aforesaid).

In testimony whereof, I give this certificate, this day of the month of eighteen hundred and

his  
N. C. or N. O.

(style) mark  
affixed in presence of N. O.

Witness.

Sworn this day of the month of  
18 at (place) before me, the undersigned,  
A. B., justice of the peace (or warden, etc.)  
A. B.

## MUNICIPAL BY-LAWS.

No. 13. By-law of the county council passed at a general session.

By-law No.

Province of Quebec,  
Municipality of

At a general session of the municipal council of the county of held at (place) in this county, on Thursday, the day of the month of eighteen hundred and in conformity with the provisions of the municipal code of the Province of Quebec, at which session were present the warden A. B., mayor of the municipality of the parish of and the following councillors, C. D., mayor of the municipality of the parish of, E. F., mayor of the municipality of the village of, and H. J., mayor of the municipality of the town of, forming a quorum of the council, under the presidency of the warden of the council (or of C. D., councillor, in the absence of the warden).

1. (Provisions of the by-law).

2. do

3. do

(Seal)

A. B., or C. D.,  
Warden, (Pres.).

## No. 14. By-law of a local council passed at a general session.

By-law No.

Province of Quebec,  
Municipality of

At a general session of the municipal council of *(name of the parish or township)* held at *(place)* in the said *(name)* on *Saturday*, the *day* of the month of *eighteen* hundred *in*, in conformity with the provisions of the municipal code of the Province of Quebec, at which session were present: Mr. Mayor A. B., and councillors, C. D., E. F., G. H., forming a quorum, under the presidency of Mr. Mayor (or of C. D. in the absence of the mayor);

It is ordained and resolved by by-law of the council, as follows:  
1. *(Provisions of the by-law)*.

2. *do*  
3. *do*

(Seal).

A. B., or C. D.,  
Mayor, (President.)

## No. 15. By-law of a council passed at a special session.

By-law No.

Province of Quebec,  
Municipality of

At a special session of the municipal council of *(name of the persons who have convened the session)* and convened by *(name of the persons who have convened the session)* and held at *(place)* on *Saturday*, the *day* of the month of *eighteen* hundred *in*, in conformity with the provisions of the municipal code of the Province of Quebec, at which were present: Mr. Warden (or Mr. Mayor), A. B., and the councillors C. D., E. F., and G. H., forming a quorum of the council, under the presidency of Mr. Warden (or Mayor); the other councillors I. J., K. L., M. N., having, after examination, received notice of the convocation of such session;

It is ordained and resolved by by-law of the council, as follows; etc.

## Form No. 16.

## RESOLUTION OF THE COUNCIL.

Province of Quebec,  
Municipality of

At the session, etc., *(same preamble as in the case of municipal by-laws, unto the following words)*:

It is ordained and resolved by resolution of the council, as follows:  
1. *(Provisions of the resolutions)*.

2. *do*  
(Seal).

A. B., or C. D.,  
(Warden or Mayor). Pres.

SURETY-BON

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I, A. B., do s  
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## No. 17.

## SURETY-BOND OF THE SECRETARY-TREASURER TAKEN 'SOUS SEING PRIVÉ.'

Province of Quebec,  
District of  
County of

(name

Whereas I, A. B., have been appointed secretary-treasurer of the municipal council of \_\_\_\_\_, in the district of \_\_\_\_\_, in the county of \_\_\_\_\_,

eighteen  
s of the muni-  
were present:  
H., forming a  
D. in the ab-

as follows:

D.,  
(President.)

session.

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were present:  
C. D., E. F.,  
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K. L., M. N.,  
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, as follows:

, and whereas, in conformity with the provisions of the municipal code of the province of Quebec, we, C. D., (*style and domicile*), and E. F., (*style and domicile*), have been approved of and accepted as the sureties of the said A. B., for the payment of all sums of money, for which he, the said A. B., may, in his quality of secretary-treasurer, be, by himself, or by any person for whom he is responsible, accountable towards, the "corporation of (*name of the corporation*)" or towards any other person, including principal, interest and costs, as well as penalties and damages, to which he may become liable in the exercise of his office.

Know all men by these presents that we, the said A. B., C. D. and E. F., jointly and severally acknowledge ourselves firmly bound to repay and reimburse to "the corporation of (*name of the corporation*)" all sums for which the said A. B., by himself or by any other person for whom he may be responsible, may, in the discharge of his office, become accountable towards the corporation or any other person, in principal, interest, costs, penalties or damages; and for surety of the payment of such sums well and truly to be made, we do specially hypothecate for the sum of \_\_\_\_\_ dollars the properties hereinafter mentioned, viz: the said A. B., a piece of land (*description of the immoveable accepted by the council*), and the said C. D., a piece of land (*description of immoveable*).

Now the condition of this surety-bond is, that if the said A. B., do at all times well and faithfully discharge the function and duties of the office of secretary-treasurer, to which he has been appointed, and accounts for, pays, or hands over to the said corporation, or to any other person, any sums of money for which he himself or any person for whom he is responsible during the holding of his office, is accountable, toward such corporation or person, in principal, interest, costs, penalties or damages, then this bond shall be null; otherwise it shall remain in full force and virtue.

A. B.  
C. D.  
E. F.

Witnesses,—(*names of witnesses.*) } G. H.  
J. H.

## No. 18.

## OATHS OF SPECIAL CONSTABLES.

I, A. B. do swear that I will well and truly serve our Sovereign Lady the Queen in the office of special constable for the \_\_\_\_\_, without favor or affection, malice or ill-will; and

C. D.,  
Pres.

that I will, to the best of my power, cause peace and good order to be kept, and prevent all offences against the persons and properties of Her Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof according to law. So help me God.

Sworn, etc.

A. B.

### WARRANTS.

No. 19. Form in connection with article 963.

#### WARRANT OF SEIZURE FOR MUNICIPAL TAXES.

The Corporation of

Province of Quebec,  
Municipality of

vs.

A. B. (*name of the rate-payer indebted, his style and domicile*).

To J. S., (*residence*) one of the bailiffs of the superior court of the province of Quebec, acting in the district of

Whereas the said A. B., has been required, by the secretary-treasurer of the municipal council of \_\_\_\_\_ to pay into his hands, on behalf of the corporation of \_\_\_\_\_ the sum of \_\_\_\_\_ being the amount by him due to the said corporation for municipal taxes, as appears by the general (*or special*) assessment roll published by the said secretary-treasurer, by notice given on the \_\_\_\_\_ day of the month of \_\_\_\_\_

\_\_\_\_\_ ; and whereas the said A. B., has neglected or refused to pay to the secretary-treasurer, within the delay required by the municipal code of the province of Quebec, the said sum of \_\_\_\_\_ dollars, etc., these are therefor to command you to seize, without delay, the goods and chattels of the said A. B., which are found within the limits of the municipality; and if within the space of eight days after such seizure, the aforesaid sum, together with the costs of seizure, is not paid, you shall sell the said goods and chattels so by you detained, and pay over the moneys arising from such sale, unto the secretary-treasurer, that he may apply the same as by law directed; and if such seizure cannot be effected you shall certify the same unto me, to the end that such proceedings may be had therein as to law appertain.

Given under my hand, this \_\_\_\_\_ day of the month of \_\_\_\_\_

\_\_\_\_\_ at \_\_\_\_\_ district of \_\_\_\_\_

N. C.

Mayor.

(*or Justice of the Peace.*)

To all and sundry of \_\_\_\_\_ (house, etc.)

Whereas \_\_\_\_\_ of local council \_\_\_\_\_ other meeting \_\_\_\_\_ describe the \_\_\_\_\_ signed, duly \_\_\_\_\_ such other \_\_\_\_\_ adjudged the \_\_\_\_\_ (house of cor

These are to \_\_\_\_\_ officers, or \_\_\_\_\_ the said A. \_\_\_\_\_ there deliver \_\_\_\_\_ this order.

And I here \_\_\_\_\_ etc.), to receive \_\_\_\_\_ of correction, \_\_\_\_\_ the said period \_\_\_\_\_ Given under \_\_\_\_\_ eighteen hun

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To J. S. (*res*) \_\_\_\_\_ province of Q \_\_\_\_\_ Whereas in \_\_\_\_\_ cipal council \_\_\_\_\_ (*place*) on \_\_\_\_\_ hundred \_\_\_\_\_ pal code of the \_\_\_\_\_ part of the by-l \_\_\_\_\_ And wherea \_\_\_\_\_

as the case may \_\_\_\_\_ tion): and whe \_\_\_\_\_ be) here insert \_\_\_\_\_ ance or exhibi \_\_\_\_\_ the said munic \_\_\_\_\_ of the said cor

## No. 20. WARRANT OF COMMITMENT ON VIEW.

Province of Quebec,  
Municipality of

To all and any the constables and peace officers in the district of \_\_\_\_\_, and to the keeper of the (*house of correction, lock-up house, etc.*) at \_\_\_\_\_ in the district of \_\_\_\_\_

Whereas A. B., (*name and style*), has, this day, during the election of local councillors for the municipality of \_\_\_\_\_ (*or during any other meeting or proceedings*), broken and disturbed public peace (*here describe the manner*), in the presence and within view of the undersigned, duly appointed to preside at the said election (*or to conduct such other proceeding*) and presiding thereat; and whereas I have adjudged the said A. B., for the said offence, to be imprisoned in the (*house of correction, lock-up house, etc.*), for the time and space of \_\_\_\_\_ days;

These are therefore to command you, the said constables or peace officers, or any of you, in Her Majesty's name, forthwith to convey the said A. B., to the (*house of correction, lock-up house, etc.*), and there deliver him into the custody of the keeper thereof together with this order.

And I hereby require you the said keeper of the (*house of correction, etc.*), to receive the said A. B., into your custody in the said (*house of correction, etc.*), and there safely keep him until the expiration of the said period of imprisonment.

Given under my hand, this \_\_\_\_\_ day of the month of \_\_\_\_\_  
eighteen hundred and \_\_\_\_\_ at (*place.*)

Z. Y.

## No. 21. WARRANT OF DISTRESS IN VIRTUE OF A BY-LAW MADE UNDER ARTICLE 599.

The corporation of

Province of Quebec,

A. B.

vs.

To J. S. (*residence*) one of the bailiffs of the Superior Court of the province of Quebec, acting in the district of \_\_\_\_\_

Whereas in and by a certain by-law made and passed by the municipal council of \_\_\_\_\_ at a session of the said council, held at (*place*) on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_ hundred \_\_\_\_\_ in conformity with the provisions of the municipal code of the province of Quebec, it was ordained (*here insert the part of the by-law which has been infringed*).

And whereas \_\_\_\_\_ certain persons did lately, to wit: on the \_\_\_\_\_ day of \_\_\_\_\_ (*instant or now last past*) hold (*or give as the case may be*), a (*here state the nature of performance or exhibition*): and whereas A. B., being (the proprietor, etc., *as the case may be*) *here insert the connection such person may have with the performance or exhibition*, has been required by the secretary-treasurer of the said municipal council, to pay into his hands for and on behalf of the said corporation, the sum of \_\_\_\_\_, being the amount of

tax imposed on every such (performance or exhibition); and whereas the said A. B. has neglected or refused to pay unto the said secretary-treasurer, on his said demand, the said sum of \_\_\_\_\_, lawfully imposed on the said (performance or exhibition), as aforesaid; these are, therefore, to command you forthwith to make distress of the goods and chattels of the said A. B., and of all and every the goods and chattels appertaining to the said (performance or exhibition) or of all or any of the persons connected with such (performance or exhibition); and if within the space of \_\_\_\_\_ days after the making of such distress, the said mentioned sum, together with the reasonable costs and charges of taking and keeping the said distress, are not paid, that then you do sell the said goods and chattels so by you detained, and do pay the money arising from such sale unto the secretary-treasurer of the said municipal council that he may apply the same as by law directed, and may render the overplus, if any, on demand, to the said A. B., or others whom it may concern, and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein, as to law doth pertain.

Given under my hand at \_\_\_\_\_ in this said district, this  
day of \_\_\_\_\_ eighteen hundred and \_\_\_\_\_

Y. X., Mayor.

Any other warrant of distress executory *instante*, may be served in the same form as the above, by changing the allegation of circumstances therein.

#### No. 22. FORM OF DEBENTURES

Municipality of the (as the case may be).

No. \_\_\_\_\_ cy. (or) stg.

This debenture witnesseth that the corporation of (as the case may be), under the authority of the municipal code of the province of Quebec, has received from (name) of (domicile, profession or occupation) the sum of \$ \_\_\_\_\_ cy. or stg., as a loan to bear interest from the date hereof \_\_\_\_\_ at the rate of \_\_\_\_\_ per centum per annum, payable half yearly on the \_\_\_\_\_ day of \_\_\_\_\_ and at \_\_\_\_\_ which sum of \_\_\_\_\_ the said \_\_\_\_\_ as a municipal corporation, hereby binds and obliges itself to pay on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ to the said \_\_\_\_\_, or to the bearer hereof, and to pay the interest thereon half yearly as aforesaid, according to the coupons or interest warrant hereto attached.

In testimony whereof, I, \_\_\_\_\_, warden or mayor of the said corporation being hereunto duly authorized, have hereunto affixed the common seal of the municipality, at \_\_\_\_\_ in the said (county, parish, city, etc. of \_\_\_\_\_) on this \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord, one thousand eight hundred and \_\_\_\_\_

Secretary-Treasurer.

Mayor.

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# EXTRACTS

FROM THE

STATUTES CONCERNING MUNICIPAL CORPORATIONS  
AND THEIR OFFICERS.

## QUEBEC LICENSE LAW.

(Revised Statutes of Quebec.)

### SECTION XII.

§ 1.—*Interpretative and Declaratory Provisions.*

**827.** This section may be designated and cited as the Quebec License Law.

It applies to the Province, and to the mining divisions therein so long as subsection 24 of this section has not been put into force by proclamation. 41 V., c. 3, s. 259; 51-52 V., c. 10, s. 15.

**828.** The following terms and expressions, used in this section, shall be interpreted to have the meaning hereinafter applied to them, unless some special provision of the law clearly indicates a different meaning: 41 V., c. 3, s. 1.

1. Intoxicating liquors are brandy, rum, whiskey, gin and wines of all descriptions, ale, beer, lager beer, porter, cider, and all others containing an intoxicating principle, and all beverages composed, wholly or in part, of any such liquors; 41 V., c. 3, s. 1 § a.

2. Temperance liquors are ginger beer, spruce beer, root beer, kinds of syrups and similar liquids or beverages, simple or mixed, in which there is no intoxicating principle; 41 V., c. 3, s. 1 § b.

3. Houses of public entertainment are houses or places of public resort, established for the reception of travellers and of the public, where, in consideration of payment, food and lodging are habitually furnished;

Such houses of public entertainment are inns and temperance hotels; 41 V., c. 3, s. 1 § c.

4. An inn, embracing those establishments also called hotels

and taverns, is a house of public entertainment, where intoxicating liquors are sold ; 41 V., c. 3, s. 1  $\frac{1}{2}$  d.

5. A temperance hotel is a house of public entertainment, in which no intoxicating liquors are sold ; 43-44 V., c. 11, s. 2  $\frac{1}{2}$  i.

6. A restaurant is an establishment where, in consideration of payment, food (without lodging) is habitually provided, and where intoxicating liquors are sold ; 51-52 V., c. 10, s. 1.

7. A steamboat bar is a place or apartment established for the sale of intoxicating liquors in a steamboat or other vessel ; the world vessel includes every craft ; 41 V., c. 3, s. 1  $\frac{1}{2}$  g.

8. A railway buffet is a place or apartment within a railway station, where, in consideration of payment, food is habitually or occasionally provided for railway travellers, and intoxicating liquors are sold ; 41 V. c. 3, s. 1  $\frac{1}{2}$  h.

9. A tavern at the mines is an inn kept within a radius of seven miles from the place where mining is being prosecuted ; 41 V., c. 3, s. 1  $\frac{1}{2}$  i ; 45 V., c. 9, s. 5 ; 45 V., c. 14, s. 2.

10. A liquor shop is any store or shop where intoxicating liquors are sold, without food or lodging being provided. 41 V., c. 3, s. 1  $\frac{1}{2}$  j.

11. Liquor shops are divided into wholesale and retail shops ; 41 V., c. 3, s. 1  $\frac{1}{2}$  k.

12. A wholesale liquor shop is that wherein are sold, at any one time, intoxicating liquors in quantities not less than two gallons, imperial measure, or one dozen bottles, of not less than one pint, imperial measure each ; 43-44 V., c. 11, s. 2  $\frac{1}{2}$  2.

13. A retail liquor shop is that wherein are sold, at any one time, intoxicating liquors in quantities not less than one pint, imperial measure ; 43-44 V., c. 11, s. 2  $\frac{1}{2}$  3.

14. Every delivery of intoxicating liquor, made otherwise than gratuitously, constitutes, in the sense of this section, a sale thereof ; 41 V., c. 3, s. 1  $\frac{1}{2}$  n.

15. The gratuitous character of the delivery is inferred from the circumstances under which the delivery is made and from the intention of the persons, respectively, delivering and receiving the liquors ; 41 V., c. 3, s. 1  $\frac{1}{2}$  o.

16. Every delivery, not gratuitous, is considered as being that by sale, without its being necessary to prove the delivery of any payment in money therefor, or of any object having a pecuniary value, as price of the sale of such liquors ; 41 V., c. 3, s. 1  $\frac{1}{2}$  p.

17. The license to sell intoxicating liquors in an inn, restaurant, steamboat bar, or railway buffet, includes the permission that the liquors so sold be drunk on the premises ; but that privilege does not accrue to liquor shops, in which cases all liquor delivered must be consumed outside of such shops ; 41 V., c. 3, s. 1  $\frac{1}{2}$  q.

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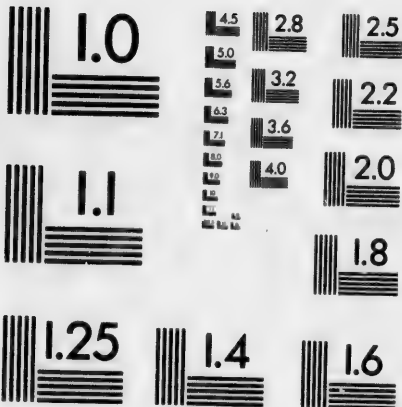


28. The "informant" is the person who institutes such prosecution, in the form *qui tam*, for such contraventions; 41 V. c. 3, s. 1 § aa.



# MICROCOPY RESOLUTION TEST CHART

(ANSI and ISO TEST CHART No. 2)



APPLIED IMAGE Inc

1653 East Main Street  
Rochester, New York 14609 USA  
(716) 482 - 0300 - Phone  
(716) 288 - 3989 - Fax

29. The words "billiard tables," in addition to their proper meaning, mean also boards used for the games of pigeon-hole, mississippi or bagatelle; 41 V., c. 3, s. 1 § *bb*.

30. A "bottler" is a person who bottles fermented liquors, sells and delivers them, either on his own premises or at those of the purchaser, in quantities of at least a dozen bottles at a time; 43-44 V., c. 11, s. 2 § 4.

31. A "club" is an association, in which the profits arising from the sale of intoxicating liquors and use of billiard tables belong to the members of the club, who are proprietors, *bond fide*, of all the moveable property therein, and are proprietors or lessees of the establishment; 43-44 V., c. 11, s. 2 § 4.

32. A "polling subdivision, is any subdivision, for voting purposes at elections of members of the Legislative Assembly of an electoral district in the Province as shown by the electoral list which served for the last election. 51-52 V., c. 10, s. 2.

33. (*Add by 52, V., c. 15, s. 1.*) The competent authorities are the officers charged with the duty of confirming or rejecting license certificates for sale of intoxicating liquors.

**829.** It is forbidden to all persons, corporations or clubs, under pains of the fines and penalties, hereinafter promulgated, to keep within the limits of this Province:

1. Any inn, or temperance hotel;
2. Any restaurant or steamboat bar;
3. Any liquor shop, wholesale or retail;
4. Any railway buffet, or taverns at the mines;
5. Or to sell intoxicating liquors;
6. To carry on the trade or business of auctioneer, pawnbroker, pedlar, or ferry-man between the banks of the River St-Lawrence at certain points hereinafter indicated;
7. To keep for gain any billiard table;
8. To keep a powder magazine or to sell powder;
9. To give any equestrian representation or exhibition of wild animals, known and designated as circus and menagerie;
10. To carry on the trade of bottler;

Without having previously obtained from the Government, in the manner and form, and after payment of the duties and fees hereinafter mentioned, a license, then in full force, for each of said objects. 41 V., c. 3, s. 2; 43-44 V., c. 11, s. 3; 45 V., c. 9, s. 1.

### § 3. - By whom Licenses are issued and their Duration.

**830.** The officer appointed under any mining act in force in this Province in charge of any mining district or division, shall alone have the right to issue licenses for the sale of intoxicating liquors within a radius of seven miles from any mine that is being worked.

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Such licenses are subject to such duties as the Lieutenant-Governor in Council may determine, not however to be less than seventy-five dollars for any one license, and shall be held subject to such regulations as may be adopted by the Lieutenant-Governor in Council. 41 V., c. 3, s. 3; 43-44 V., c. 11, s. 47; 43-44 V., c. 12, s. 49; 45 V., c. 9, s. 5; 50 V., c. 3, s. 6; 51-52 V., c. 10, s. 8.

**831.** With the exception of licenses for taverns in mining divisions which are granted by the officer mentioned in the preceding article, each license for any one of the above mentioned objects, is granted in the name of the Lieutenant-Governor, and issued by one of the collectors of provincial revenue or his deputy. 41 V., c. 3, s. 3; 43-44 V., c. 11, s. 47; 43-44 V., c. 12, s. 49; 46 V., c. 6, s. 1.

**832.** Each collector of provincial revenue delivers the licenses to be used, within the limits of the district assigned to him, with the exception of pedlars' licenses, which may be issued for all judicial districts, by the same officer, and he collects the duties and fees imposed upon those licenses by law.

In the case of a steamboat bar license, the duty devolves on the collector of provincial revenue for the district, where the proprietor, master or person in charge of the said steamboat or vessel, for which such license is required resides, and, in the event of such steamboat or vessel belonging to a company, on the collector of provincial revenue for the district, in which the company hold its head office, or principal place of business.

The deputy collector of provincial revenue, in the same manner as his chief, delivers the licenses and collects the duties and fees. 41 V., c. 3, s. 4; 46 V., c. 6, s. 1.

**833.** The Lieutenant-Governor in Council may from time to time, name, in his discretion, any person or persons whom he authorizes to sign and deliver licenses to the collectors of provincial revenue, and may likewise determine on their form as well as the date of their delivery. 41 V., c. 3, s. 5; 46 V., c. 6, s. 1.

**834.** Except ferry licenses concerning which this section contains special provisions, steamboat bar licenses, which expire when the boats go into winter quarters, and licenses for taverns at the mines, which are of monthly duration, licenses are granted for one year, or for a portion of a year only, and expire on the first day of the month of May subsequent to their issue. 41 V., c. 3, s. 6.

#### § 4.— Licenses for Inns.

**835.** To obtain a license to keep an inn, the following formalities shall be observed :

Previous to the obtaining of any license, for any part of the organized territory of this Province, the applicant shall furnish the collector of provincial revenue with a certificate, according

to form A, annexed to this section, signed by one-fourth of the resident municipal electors, or a majority of the resident municipal electors, if they number less than fifty, of the parish, township, village, town or ward of the city, within the limits of which is situated the house for which such license is applied for, to the effect that the applicant is personally known by the signers, that he is honest, sober, and of good reputation, and that he is qualified to keep a house of public entertainment, and that the house referred to contains the lodging room required by law, and that a house of public entertainment is needed there. 41 V., c. 3, s. 7; 43-44 V., c. 11, s. 4; 46 V., c. 6, s. 1; 51-52 V., c. 10, s. 3.

*Transitory disposition chartered by 52 V., ch. 15, s. 2.*

In view of the difficulties connected with the carrying out of the provisions of articles 835 and 856 of the said Revised Statutes with reference to the number signatures to the license certificate; it is hereby declared that such provisions are suspended until they are again put in force by a proclamation of the Lieutenant Governor in Council; that during such suspension, the number of signatures required for the granting of a certificate for an inn license under article 835 shall be twenty-five municipal electors and that the number of signatures required for the granting of a certificate for a license to retail spirituous liquors in shops under article 856 shall be three municipal electors.

**836.** This certificate shall be accompanied by an affidavit of the applicant, made in accordance with form B, annexed to this section, and sworn to before a justice of the peace of the district, or in the cities of Quebec and Montreal before the judge of the sessions, the police magistrate or the recorder.

In the cities of Quebec and Montreal, no certificate for a license shall be granted, if an absolute majority of the municipal voters, residing within the municipal polling district of the ward, shall signify their opposition in writing to the granting of such license. 43-44 V., c. 11, s. 5; 44-45 V., c. 4, s. 5.

**837.** If the certificate refer to a house situate within the limits of the city, it as well as the license, shall contain the designation of the ward and street where it is situated.

The license is of no effect outside the limits of such ward and street. 41 V., c. 3, s. 9.

**838.** In all cities and incorporated towns, the signers of the certificate must be municipal electors residing or having their place of business in the polling subdivision in which is situated the house for which the license is applied for.

The authorities charged with confirming the certificates shall not confirm the certificate of any applicant, if the majority of the municipal electors, residing or having their places of business in the polling subdivision, in which is situated the house to which the license is to apply, object thereto, by petition, signed by

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them and produced before the clerk before the day fixed for the taking into consideration of the said certificate.

In case any applicant for the confirmation of a license certificate should, for any informality or other reason whatsoever, withdraw his petition after an opposition has been produced thereto, the same opposition may serve against any new demand made, in the same year, for the same establishment, by the same person or by any other person in his interest. 51-52 V., c. 10, s. 4.

**839.** Such certificates (except those connected with applications for licenses in the city of Quebec, and in the city of Montreal,) shall also be confirmed by a decision of the council of the municipality within the limits of which the house is situated, drawn in accordance with form C, annexed to this section, and such confirmation is certified under the signature of the mayor and city clerk or secretary-treasurer of the council. 41 V., c. 3, s. 11; 43-44 V., c. 11, s. 6; 44-45 V., c. 4, s. 2.

**840.** If, on the day fixed for the meeting of the council, at which the confirmation of the certificate is to be taken into consideration, there be no quorum, the meeting is postponed, from day to day until there is a quorum and until the question is decided. 44-45 V., c. 4, s. 2.

**841.** The council, to which this certificate is presented shall ascertain, by procuring such information as it may deem fit and proper, if the requisite number of duly qualified electors have signed the same. The council shall also cause the authenticity of the signatures attached thereto to be established under oath before one of its members, and, if the result of such double inquiry be, in whole or in part, unfavorable to the applicant, the confirmation applied for shall be refused. 41 V., c. 3, s. 13.

**842.** Such certificate shall be refused, if it be proved to the satisfaction of the council—

1. That the petitioner is a person of bad character, having already allowed or permitted drunkenness or disorder in his tavern, or

2. That he has already been twice condemned to a fine for having sold liquor without a license, or

3. That his demand for a license is opposed in writing by the absolute majority of the electors, resident in the locality in which he intends to open a tavern. 44-45 V., c. 4, s. 1.

**843.** (Amended by 52, V., c. 15 ss. 2, 3, 4, 6, 7). The confirmation of the certificate is granted at the Police Court, in Quebec, for the city of Quebec, by the Judge of the sessions of the peace or the recorder; and at the police court in Montreal for the City of Montreal, by the two judges of the sessions of the peace and the recorder or any two of them. 50 V., c. 3, s. 2.

Paragraph 2 of article 843 of the said Revised Statutes is replaced by the following :

2. In the city of Quebec the clerk of the peace acts as clerk of the competent authorities.

2a. In the city of Montreal a clerk to the competent authorities is appointed by the Lieutenant-Governor in council.

An assistant clerk shall be appointed by the competent authorities in the case of the sickness or absence of the clerk to act as such.

The salary of the clerk, which shall not exceed the sum of eight hundred dollars, as well as the place where he shall keep his office, shall be fixed by the Lieutenant-Governor in council.

The clerk or assistant-clerk has power to administer the oaths required in support of certificates, oppositions, petitions and other document which may be used as evidence before the competent authorities.

*Paragraph 3 of the said article 843 of the Revised Statutes is replaced by the following.*

3. Any person intending to ask for the confirmation of a certificate shall procure the form from the office of the clerk and pay a tax of two dollars by stamps affixed to such form.

For the transfer of a license the tax shall be twenty dollars payable in stamps affixed upon the form of such transfer.

The competent authorities shall not recognize any such certificate not having the required stamps.

4. The clerk shall prepare a list and post it up in a conspicuous place in his office, open to the public; and such list shall give the date of the inscription of each application, the name, occupation and residence of applicant, the situation of the house to which the license applies, and the day on which it will be taken into consideration. 43-44 V., c. 11, s. 8 § d.

5. No application can be taken into consideration by the competent authorities unless it has been inscribed on the said list for at least fifteen days. 50 V., c. 3, s. 3.

6. Any person may oppose the application, and, if notice of the opposition have been given to the clerk, the latter shall, three days before the taking into consideration of such application, give notice thereof to the applicant and to the opposant, if there be one. 43-44 V. c. 11, s. 8 § f.

7. Any person, producing before the competent authorities when the application is being taken into consideration, or who has previously produced, before the clerk, verbally or in writing the objections by him made to the granting of the confirmation of the certificate, has the right to be heard on the grounds and reasons of such objections or such other objections as may there be raised. 43-44 V., c. 11, s. 8 § g.

8. The said competent authorities may hear him as well as the applicant, forthwith, or may fix a future day for such hearing. 43-44 V., c. 11, s. 8 § h.

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9. Upon such hearing, as well as on every application which is not objected to it is the duty of the said authorities, collectively or separately, whenever they may judge it useful or necessary, to make all the inquiries they deem proper to satisfy themselves of the qualifications of the applicant and of the truth of the facts put in issue. 43-44 V., c. 11, s. 8 § h.

10. The said authorities may, to that end, take into consideration all documents, hear, or cause to be heard by some fit person, all persons whom, from the personal knowledge of such authorities, or, on the indication of the objecting parties, or of others, they believe to be able to give information, and generally to resort to any other source of information. 43-44 V., c. 11, s. 8 § i.

11. When the said authorities wish to obtain information from officers or members of the Quebec or Montreal police force respectively, they may, through the chief of police, order those functionaries to come before them and to make all such inquiries as may be deemed necessary. 43-44 V., c. 11, s. 8 § j.

12. When opposition is made to any application for the confirmation of a certificate, such confirmation can only be made, in Quebec by the judge of the sessions and the recorder, and in Montreal by both the police magistrates and recorder. 43-44 V., c. 11, s. 8 § k.

13. The granting of the confirmation of the certificate or the refusal thereof, for any cause whatever, is discretionary with the said authorities, except in the case provided for in article 336, and their decision is final. 43-44 V., c. 11, s. 8 § l.

14. No license shall be granted by the collector of provincial revenue, unless there be deposited in his hands a certificate, signed by the said authorities, who shall deliver to the applicant such certificate attesting the granting of such confirmation. 43-44 V., c. 11, s. 8 § m.

15. The clerk shall, from time to time, prepare a list of the certificates, which the said authorities have confirmed and which are then in force, and keep it posted in the police court or in his office. 43-44 V., c. 11, s. 8 § n.

§ 5,— *Special provisions respecting the cities of Hull and Three-Rivers.*

844. Amended 52, V. c. 15, s. 3. In the cities of Hull and Three-Rivers, every license certificate shall be granted or refused by three commissioners, who shall be the registrar of the county, the recorder of the city and the clerk of the Circuit Court or one of the clerks if there are more than one or the district magistrate. Such certificate shall be deposited with the secretary of the corporation of the city, on or before the first day of April.

The said commissioners, or the majority of them, shall take the said certificates into consideration on the fifteenth day of the

said month of April, and may adjourn from day to day or to a subsequent day to deliberate.

The secretary shall prepare a list containing the dates of all certificates, the names, occupation and residence of the applicants and post them up in a conspicuous place in his office, which shall be open to the public. 51-52 V., c. 10, s. 14.

**§ 6.—Other Provisions applicable to all Inn Licenses.**

**845.** On each confirmation of a certificate, for the purpose of obtaining a license for the cities of Quebec and Montreal, the sum of eight dollars is paid to the corporation of each of such cities; and a sum not exceeding twenty dollars may be demanded and received by other corporations for the same object, within the limits of their jurisdiction. 41 V., c. 3, s. 36.

2. The preceding provision does not deprive incorporated cities and towns of the rights which they may have by their charters or by-laws. 41 V., c. 3, s. 37.

**846.** Before obtaining his license, the applicant shall furnish two sureties, who justify their solvency on oath, up to the amount of two hundred dollars each, and who oblige themselves to pay to the Provincial Treasurer all fines and penalties to which the applicant may be condemned for any contravention of this section while his license is in force.

Such sureties shall be considered as judicial sureties.

No retailer or dealer in liquors can be accepted as surety for the purposes of this section.

No person can become security for more than one licensee. 51-52 V., c. 10, s. 5.

**847.** The bond is drawn according to the form indicated in schedule G, annexed to this section.

It must be executed in the presence of the collector of provincial revenue for the district in which the license was applied for, or in the presence of one or more of the members of the municipal council who confirmed the certificate, and the sureties must be approved by them.

The securities and certificates, required by this section, are deposited in the office of the proper collector of provincial revenue, who shall not issue license, until it be established to his satisfaction that the sums mentioned in article 878 have been paid. 41 V., c. 3, s. 39; 43-44 V., c. 11, s. 9; 44-45 V., c. 4, s. 2.

**848.** In the cities of Quebec and Montreal, no license is transferable, except to the heirs of the licensee, if he die before the license expires;

Nevertheless, in exceptional cases, the transfer, may be made upon the special authorization of the Provincial Treasurer.

To obtain the authorization, a notice to that effect of fifteen days must be given by the interested party in two newspapers

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The notice must mention the name and surnames of the party intending to make the transfer, and also of the person, to whom the transfer is to be made, and the date of presenting the petition to the Treasurer for the purpose.

Save in the case of the death of a licensee, no transfer of the license shall be made, and no demand for an authorization to make such transfer shall be received, until after the expiration of three months from the date upon which the license was delivered by the collector of provincial revenue.

In all other parts of the Province, except those above mentioned, if the licensee leave his house or die before the license expires, he or his representatives, as the case may be, may transfer such license to another.

The transferee thereof, in all cases, may exercise all the rights which accrued thereunder to the original licensee in the house therein described, or, if such house be situated within an organized territory of the Province, in any other building, situated within the limits of the municipality, which the judge of the sessions or recorder at Quebec or the two judges of the sessions of the peace and the recorder at Montreal or the majority of them, or, in any other municipality, the municipal council, as the case may be, approve of, and which is set forth in the certificate referred to in the following article. 50 V., c. 3, s. 4; 51-52 V., c. 10, s. 6.

**849.** This transfer has its effect, only if the transferee thereof, in case the house in question be situated in organized territory, deliver the certificate to the collector of provincial revenue, and give the security which the licensee was himself obliged to give, and, in the cities of Quebec and Montreal, pay the excess of duty which may be exigible in consequence of the difference of the rent or annual value, between the house occupied by the original licensee, and the one occupied by the transferee.

The transfer shall be written on the back of such license by the collector of provincial revenue, and the transferee shall comply with all the formalities which were incumbent on the original applicant.

The transfer shall be so made within three months from the death of the licensee or from his abandonment of his house, failing which the license is of no avail. 41 V. c. 3, s. 41; 46 V., c. 6, s. 1.

**850.** No municipal councillor, being at the same time, a brewer, distiller, or dealer in intoxicating liquors, or proprietor of a house of public entertainment, shall sign the certificate mentioned in article 835, under a penalty of twenty dollars for each contravention. 41 V. c. 3, s. 42.

**851.** No person shall knowingly, sign such certificate, unless duly qualified to do so, under a penalty of twenty dollars for each contravention. 41 V., c. 3, s. 43.

**852.** To obtain a license for an inn, in non-organized territory, it is only necessary to give previously, in the presence of the collector of provincial revenue, the security required by articles 846 and 847.

The application for such licenses must however be first submitted to the Provincial Treasurer, and are subject to his approval. 41 V., c. 3, s. 44; 43-44 V., c. 11 s. 11; 46 V., c. 6, s. 1.

**853.** None of the licenses hereinbefore mentioned shall be granted to a grocer, or person keeping a shop or store for the sale of groceries, provisions, sweetmeats or fruits, in any city. 41 V., c. 3, s. 45; 43-44 V., c. 11, s. 12.

#### § 7.—*Restaurant Licenses.*

**854.** The conditions and formalities imposed, relating to the certificates required to obtain a license for an inn, apply, *mutatis mutandis*, to restaurant licenses, including the provisions established for the cities of Quebec and Montreal. 43-44 V., c. 11 s. 13.

#### § 8.—*Steamboat Bar and Temperance Hotel Licenses.*

**855.** Steamboat bar and temperance hotel licenses are granted simply upon payment to the proper collector of provincial revenue of the required duties and fees. 41 V., c. 3, s. 47; 46 V., c. 6, s. 1.

#### § 9.—*Liquor Shop and Club Licenses.*

##### 1.—LIQUOR SHOP LICENSES.

**856.** The conditions and formalities relative to the certificates and securities required to obtain an inn license are in like manner applicable, *mutatis mutandis*, to the obtaining of licenses for the sale, by retail, of intoxicating liquors in shops, including the provisions enacted for the cities of Quebec and Montreal, except that the number of electors required upon the certificate shall be limited to twenty-five. 51-52 V., c. 10, s. 7.

*Transitory provision introduced by 52 V., c. 15, s. 14.*

In view of the difficulties connected with the carrying out of the provisions of articles 835 and 856 of the said Revised Statutes with reference to the number of signatures to the license certificate, it is hereby declared that such provisions are suspended until they are again put in force by a proclamation of the Lieutenant-Governor in Council; that during such suspension, the number of signatures required for the granting of a certificate for an inn license under article 835 shall be twenty five municipal elec-

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tors, and that the number of signatures required for the granting of a certificate for a license to retail spirituous liquors in shops under article 856 shall be three municipal electors.

20.—CLUB HOUSES.

**857.** Licenses for the sale of intoxicating liquors in clubs, in cities and incorporated towns and in the banlieue of Quebec, are granted simply upon payment, to the proper collector of provincial revenue, of the required duties and fees.

2. The conditions and formalities imposed relative to the certificates required to obtain a license for the sale by retail of intoxicating liquors in shops are applicable, *mutatis mutandis*, to the certificates required for the sale of intoxicating liquors in clubs in municipalities other than those of cities and incorporated towns. 50 V., c. 3, s. 5.

**857a.** (Added by 52 V., c. 15, s. 7.) In the public interest and for the purposes of exercising a more efficient restrictive control over the sale of intoxicating liquors at large gatherings, such as agricultural and industrial exhibitions, picnics of national or trade associations and races, may be granted by the Provincial Treasurer, upon an order in council for that purpose, to societies, clubs and corporations having control of the same, or to the person recommended by them, at such rates and conditions and for such time as may be determined in the said order in council.

§ 10.—*Licenses of Railway Buffets and of Taverns at the Mines,*

**858.** Upon a petition presented by any railway company, the Lieutenant-Governor in Council may authorize the collector of provincial revenue, to whom it appertains, to deliver to the person indicated a license to sell intoxicating liquors, at the railway station therein mentioned, to travellers upon such railway, but to none others. 41 V., c. 3, s. 49.

**859.** With the exceptions of the provisions contained in articles from 835 to 852, and also the provisions hereinafter mentioned, relative to the accommodation which must be provided for travellers by the master of an inn, to the prohibition to sell intoxicating liquors, to keeping the bar closed during certain days and certain hours, also to the obligation to receive and accommodate travellers, the other provisions of this section shall apply, *mutatis mutandis*, to licenses of railway buffets, in so far as they are not incompatible with such licenses.

One person only shall be licensed for each station. 41 V., c. 3, s. 49.

§ 11.—*General Restrictions.*

**860.** Whenever a municipal by-law shall have been passed and confirmed as by-law required, prohibiting the sale of intoxi-

cating liquors within the limits of its jurisdiction, and a copy of by-law has been transmitted to the collector of provincial revenue entitled to the same, the collector of provincial revenue is forbidden to issue any of the licenses hereinbefore mentioned for the sale of such liquors, excepting steamboat bar licences and licenses of railway buffets, such licenses not being affected by the present restriction.

Notwithstanding the quashing, by judgment of a court of justice, of such a by-law, the collector of provincial revenue shall not grant any of such licenses, within two months from the rendering of such judgment unless such judgment is final. 41 V., c. 3, s. 51; 46 V., c. 6, s. 1.

**861.** In municipalities, in which there exists a by-law prohibiting the sale of intoxicating liquors, or where there is no person licensed to retail spirituous liquors, the sale of such liquors is permitted by the person licensed for that purpose, as provided in article 864, for medecinal purposes only, or for use in divine worship, on the certificate of a physician or of a clergyman, and not otherwise. 43-44 V., c. 11, s. 15 § a; 50 V., c. 4 s. 1.

**862.** Such certificate can be given by a physician, only to a patient under his immediate care, or by a clergyman, only to a person whose spiritual adviser he is, *bonâ fide*, under penalty of a fine of thirty dollars for each contravention of this provision. 43-44 V., c. 11, s. 15 § b; 50 V., c. 4, s. 2.

**863.** Not more than three half pints, imperial measure, shall at any one time, be sold in virtue of such certificate, and no liquor, so sold, shall be allowed to be drunk on the premises, under a penalty of forty dollars for each contravention. 43-44 V., c. 11, s. 15 § c; 50 V., c. 4, s. 3.

**864.** The sale of intoxicating liquors, in the case mentioned in article 861, is confined to one person in each municipality; such person to be appointed for that purpose by a resolution of the municipal council, a certified copy of which must be deposited with the collector of provincial revenue of the district, who, on receipt thereof and of the license duties as hereinafter provided, shall issue to the person named in such resolution a license to sell for medicinal purposes, or for use in divine worship only. 43-44 V., c. 11, s. 15 § d. 46 V., c. 6, s. 1.

**865.** The person, so licensed, is bound to make a report, to the collector of provincial revenue, sworn to before a justice of the peace on the first of every month, showing the name of the persons to whom he has sold liquors during the previous month, the quantity sold in each case, and upon whose certificate the sale was made; which certificate shall accompany the report.

The violation of any of the provisions of this article shall subject the person, so contravening, to a penalty of twenty dollars for each contravention. 43-44 V., c. 11, s. 15 § e; 46 V., c. 6, s. 1.

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§ 12.—*Auctioneer's Licenses.*

**866.** Previous to the issue of any auctioneer's license, every individual desirous of obtaining one must become personally bound towards the Provincial Treasurer, with two sufficient sureties taken before the collector of provincial revenue, or before some person by him thereto authorized, in an amount of which the maximum is two thousand dollars and the minimum five hundred dollars for each, in the discretion of such collector, to guarantee the payment of all moneys for duties, which the applicant for license shall or ought to receive, and for the faithful execution of the obligations imposed upon him by this section. 41 V., c. 3, s. 52; 46 V., c. 6, s. 1.

**867.** Such security bond shall be in duplicate, whereof one duplicate shall be transmitted to the Treasurer, and the other shall be retained in the archives of the revenue office. Each surety shall justify on oath his sufficiency before the officer receiving such bond. 41 V., c. 3, s. 52.

§ 13.—*Pawnbrokers' Licenses.*

**868.** The issue of a pawnbroker's license by a collector of provincial revenue requires no other formality than the payment of the duty and persons carrying on the business of pawnbroking in co-partnership, in one and the same house, shop or place of business, require but one license. 41 V., c. 3, s. 53; 46 V., c. 6, s. 1.

§ 14.—*Pedlar's Licenses.*

**869.** Every pedlar is obliged to take out a license from the proper collector of provincial revenue, without the observance of any other formality than the payment of the duty; but the necessity of obtaining such license has not the effect of preventing a licensed pedlar from employing a servant to assist him in carrying about his bales of goods or merchandise without being obliged to take out a second license for such servant. 41 V., c. 3, s. 54; 46 V., c. 6, s. 1.

**870.** No enactment of this section obliges a pedlar to take out a license, nor does it apply to persons employed by a temperance society, or by a benevolent or religious society in this Province, for the purpose of peddling and selling temperance tracts and other moral and religious publications under the direction of such society.

2. No person is obliged to take out a license to peddle and sell :

1° Acts of the Legislature;

2° Prayer books and catechisms ;

3° Proclamations, gazettes, almanacs or other documents printed and published by authority ;

4° Fish, fruit and victuals ;

5° Goods, wares and manufactures, when they are peddled and sold by the actual maker or worker, he being a British subject and a resident of this Province, or by his children, apprentices, agents or servants, excepting always drugs, medicines and patent remedies.

3. Nor does this section compel the following persons to take a pedlar's license :

1° Tinkers, coopers, glaziers, harness repairers, or other persons carrying on the trade of repairing kettles, casks, household furniture and utensils, to go along the highway and carry on their business ;

2° Or hucksters, or persons having stalls or stands on markets, in cities or towns, for the sale of fish, fruit or vegetables, or goods, wares and merchandise, in such stalls or stands, on their complying with the police regulations of the locality. 41 V., c. 3, s. 55.

#### § 15.—*Ferry Licenses.*

**871.** No license is required to carry on the vocation of ferryman between the banks of the river St. Lawrence, except between the city of Montreal and the town of Longueuil, between the said city and Laprairie, and between Lachine and Caughnawaga, at the places and limits indicated in the license by the collector of provincial revenue. 41 V., c. 3, s. 56 ; 46 V., c. 6, s. 1.

**872.** No provision of this section applies to the proprietors or masters of any vessel, plying between two ports of this Province, or regularly entered or cleared by the officers of Her Majesty's customs at any such ports, or in any way affects any privilege granted by the Legislature of the late Province of Lower Canada, of the late Province of Canada, or of this Province, to the proprietors of any bridge, or to any railway company, or other road company. 41 V., c. 3, s. 57.

**873.** No license for a ferry can be granted for a period exceeding twelve months, unless it be by public competition, and to persons who give the security required by the Lieutenant-Governor in Council, after notice inserted at least four times, in the course of four weeks, in the Quebec Official Gazette and in one or more newspapers published in the district in which such ferry is situate, and if there be no newspaper published in the district, then in the nearest adjoining district in which a newspaper is published ; and no ferry is leased and no license is granted in that respect for a period exceeding ten years. 41 V., c. 3, s. 58.

#### § 16.—*Billiard Table Licenses.*

**874.** To obtain a license to keep a billiard table for gain the applicant must furnish personal security with two sufficient sureties, who, as well as the applicant, bind themselves, jointly and

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severally, towards the Provincial Treasurer in the sum of two hundred dollars each as security that the licensee will not knowingly allow, during the term of his license, any apprentice, school-boy or servant to play on or any person whomsoever to play for money on any of the billiard tables kept by him.

The surety bond must be taken in duplicate, one duplicate to be transmitted to the Treasurer and the other to be kept in the office of the collector of provincial revenue. 41 V., c. 3, s. 59; 46 V., c. 6, s. 1.

§ 17.—*Powder Magazine Licenses.*

**875.** Every person keeping a magazine for the storage of powder, or who sells and holds for sale any quantity of powder, must obtain from collector of provincial revenue a license to that effect. 41 V., c. 3, s. 60; 46 V., c. 6, s. 1.

**876.** No license can be granted for keeping a powder magazine within the limits of Quebec and Montreal, or within a radius of five miles therefrom, or unless the building be erected according to the following rules.

1. Every magazine shall be built of stone at least two feet in thickness, covered with a fire-proof roof made of metal, and adhering to the building by its own weight only;

2. It shall be enclosed, at a distance of at least ten feet clear, by a stone or brick wall at least ten feet high, with a stone coping, having a single opening, of which the door shall be covered with brass, copper or zinc, and shall be so placed as not to open on any public highway, or on the side on which is the door of the magazine;

3. In the construction of the magazine, or in the surrounding wall, only stone, brick, copper, brass, wood, glass, tin, slate, zinc or leather can be used;

4. It must have but one entrance, to which two doors with copper fastenings shall be placed, one inside and one outside the wall; both made of brass, copper or zinc, or covered with the same materials;

5. The floors shall be tongued and grooved and close-jointed, and each part thereof on which any person might walk, or place his foot, shall be covered with leather;

6. It shall be provided with two lightning-rods, to be approved of by the collector of provincial revenue.

7. Any powder magazine may, with the consent of the Lieutenant-Gouverneur in Council, be constructed in a different manner. 41 V., c. 3, s. 61; 46 V., c. 6, s. 1.

§ 18.—*Circus Licenses.*

**877.** Any person opening a circus or exhibiting a menagerie shall first obtain a license therefor from the collector of provincial revenue.

Such license shall specify the number of days for which the duties have been paid, and ceases with the last of these days.

One license suffices for the opening and exhibition, at the same place, of a circus and of a menagerie, if they form the same troupe. 41 V., c. 3, s. 62; 46 V., c. 6, s. 1.

§ 19.—*Fees and Duties payable on all Licenses.*

**878.** In addition to a fee of one dollar on the granting of each license, the duties comprised in the following tariff shall be payable by the applicant therefor, to the collector of provincial revenue, preliminary to the granting of the different licenses mentioned in this section :

TARIFF OF DUTIES ON LICENSES.

10.—LICENSES FOR THE SALE OF INTOXICATING LIQUORS.

1. On each license to keep an inn, and for the sale therein of intoxicating liquors :

a. In the city of Montreal, two hundred and sixty-two dollars and fifty cents, if the annual value or rent of the premises for which the license be required, be less than four hundred dollars;—three hundred and eighty-seven dollars and fifty cents, if the annual value or rent be four hundred dollars and less than eight hundred dollars;—and five hundred and twelve dollars and fifty cents if the annual value or rent be eight hundred dollars or more;

b. In the city of Quebec, one hundred and sixty-eight dollars and seventy-five cents, if the annual value or rent be less than two hundred dollars;—two hundred dollars, if the annual value or rent be two hundred dollars and up to four hundred dollars;—three hundred and twenty-five dollars, if the annual value or rent be four hundred dollars and less than eight hundred dollars;—and three hundred and eighty-seven dollars and fifty cents, if the annual value or rent be eight hundred dollars or more;

c. In every other city, one hundred and thirty-seven dollars and fifty cents;

d. In every incorporated town, one hundred and eighteen dollars and seventy-five cents;

e. In every village, regulated under the authority of the Municipal Code, one hundred dollars;

f. In every section of organized territory, outside of a city, town or village, eighty-one dollars and twenty-five cents;

g. In every non-organized territory, fifty-six dollars and twenty-five cents.

2. On each license for the sale of intoxicating liquors in a club:

a. In the city of Montreal, one hundred and twelve dollars and fifty cents;

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- b. In the city of Quebec, seventy-five dollars ;
- c. In every other part of the Province, sixty-two dollars and fifty cents.
3. On each license for the sale of intoxicating liquors in a restaurant or railway buffet :
  - a. In the city of Montreal, two hundred and sixty-two dollars and fifty cents, if the annual value or rent of the premises, for which the license is required, be less than four hundred dollars ; —Three hundred and eighty-seven dollars and fifty cents, if the annual value or rent be four hundred dollars and less than eight hundred dollars,—and five hundred and twelve dollars and fifty cents, if the annual value or rent be eight hundred dollars or more ;
  - b. In the city of Quebec, two hundred dollars, if the annual or rent be less than four hundred dollars ;—and three hundred and twenty-five dollars, if the annual value or rent be four hundred dollars or more ;
  - c. In every other city, one hundred and twenty-five dollars ;
  - d. In every incorporated town, one hundred dollars ;
  - e. In every other part of organized territory, eighty-one dollars and twenty-five cents.
4. On each license for the sale of intoxicating liquors, two hundred dollars.
5. On each license for the sale of intoxicating liquors at the mines or in any mining district or division, such sum as the Lieutenant-Governor in Council may determine, provided that, in no case, shall such sum be less than seventy-five dollars.
6. On each retail liquor shop license :
  - a. In each of the cities of Montreal and Quebec, twelve dollars and fifty cents and sixty-two and one-half per centum of the annual value or rent of the premises, for which the license is required ; provided that, in no case, shall the duties on such license be less than one hundred dollars or more than two hundred dollars ;
  - b. In every other city, one hundred dollars ;
  - c. In every incorporated town, eighty-seven dollars and fifty cents ;
  - d. In every other part of organized territory, seventy-five dollars ;
  - e. In every non-organized territory, forty-three dollars and twenty-five cents.
7. On each wholesale liquor shop license :
  - a. In each of the cities of Montreal and Quebec, twelve dollars and fifty cents and sixty-two and one half per centum of the annual value or rent of the premises, for which the license is required ; provided that, in no case shall the duties on such license be less than one hundred

- and thirty-seven dollars and fifty cents, or more than two hundred and sixty-two dollars and fifty cents ;
- b. In every other city, one hundred and twelve dollars and fifty cents ;
  - c. In every incorporated town, one hundred dollars ;
  - d. In every other part of organized territory, eighty-seven dollars and fifty cents.
8. On each license for the sale of fermented liquors bottled by the holder of such license :
- a. In the cities of Montreal and Quebec, seventy-five dollars ;
  - b. In any other part of the Province, sixty-two dollars and fifty cents.
9. On each license to sell liquors, for medicinal purposes or for use in divine worship, in municipalities in which a prohibitory by-law is in force :
- a. In every city, seventy-five dollars ;
  - b. In every incorporated town, fifty dollars ;
  - c. In every village, twenty-five dollars ;
  - d. In every part of organized territory, outside of a city, town, or village, twenty dollars.

#### 2°—LICENSES FOR TEMPERANCE HOTELS.

10. On each licence to keep a temperance hotel, five dollars.

#### 3°—AUCTIONEERS' LICENSES.

11. On each auctioneer's license ;
- a. In each of the cities of Montreal and Quebec, eighty-five dollars.
  - b. In all other cities and towns, sixty dollars ;
  - c. In every other part of the Province, twenty-five dollars.
12. On all separate licenses, taken out by an auctioneer, for the employment of an assistant, agent, servant or partner ascrier :
- a. In each of the cities of Montreal and Quebec, thirty-five dollars ;
  - b. In all other cities and towns, twenty five dollars ;
  - c. In every other part of the Province, fifteen dollars.

#### 4°—PAWNBROKERS' LICENSES.

13. On each pawnbroker's license, two hundred and fifty dollars.

#### 5°—PEDLARS' LICENSES.

14. On each license for a pedlar, for one judicial district, twenty dollars, and for each additional judicial district ten dollars.

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6°—FERRY LICENSES.

15. For each license for a ferry, such sums as may be fixed by the Lieutenant-Governor in Council, under articles 873 and 997.

7°—BILLIARD TABLE LICENSES.

16. For billiard table licenses, other than for those in a club ;
  - a. In incorporated cities and towns :
    1. For each table, where not more than two tables are kept by the same person, and in the same building, forty dollars ;
    2. When there are more than two,—for the third and fourth tables, twenty dollars each ;
    3. For the fifth and sixth tables, fifteen dollars each ;
    4. And for each table beyond six, ten dollars,
  - b. In every other part of organized territory, twenty dollars for each table.
17. On each licence for a billiard table in a club :
  - a. In the city of Montreal, twenty dollars ;
  - b. In the city of Quebec, fifteen dollars ;
  - c. In every other part of the Province, ten dollars.
18. For each bagatelle, pigeon-hole or mississippi board :
  - a. In every part of organized territory, fifteen dollars.

8°—POWDER MAGAZINE LICENSES.

19. For each license to keep or use a powder magazine, fifty dollars.
  20. For each license for the sale of powder or to keep it on sale :
    - a. In the cities of Montreal and Quebec :
      1. By wholesale and retail, twenty dollars ;
      2. By retail only, eight dollars ;
    - b. In every other city :
      1. By wholesale and retail, ten dollars ;
      2. By retail only, five dollars ;
    - c. In every incorporated town :
      1. By wholesale and retail, five dollars ;
      2. By retail only, two dollars and fifty cents ;
    - d. In any other organized part of the Province :
      1. By wholesale and retail, two dollars and fifty cents ;
      2. By retail only, one dollar.
- A quantity of twenty-five pounds or more, or a dozen canisters, of one pound each, sold at any one time, is deemed to be sold wholesale, and a less quantity is deemed to be a sale by retail.

9<sup>o</sup>—CIRCUS AND MENAGERIE LICENSES.

21. For each license to open and exhibit a circus or equestrian representation, menagerie, or caravan or wild animals :

- a. In the cities of Montreal and Quebec, and within a radius of three miles of each of these cities, two hundred dollars, for each day of the representation or exhibition of the same ;—and for every side-show, twenty dollars for each day ;
- b. In other parts of the Province, one hundred dollars for each day ;—and for every side-show, ten dollars for each day. 43-44 V., c. 11, ss. 2, 17 and 47 ; 50 V., c. 3, ss. 6 and 7 ; 51-52 V., c. 10, ss. 8 and 9.

§ 20.—*Licenses under the Canada Temperance Act.*

**879.** No license for the sale of intoxicating liquors shall be issued or take effect, within any county, city, incorporated town, village, township, or other municipality in the Province of Quebec, within which any by-law for prohibiting the sale of the liquor under the Canada Temperance Act is in operation ; except such licenses as are referred to in subsections 3, 4 and 8 of section 99 of the said act. 49-50 V., c. 3, s. 1. See R. S. C., c. 106.

**880.** Any collector of provincial revenue, appointed under the provisions of this section, shall, within the limits of the district for which he is appointed, exercise and discharge all his powers and duties for the enforcement of the provisions of the second part of the Canada Temperance Act, as well as of this section, so far as the same apply, within the limits of any county, city, incorporated town, village, township or other municipality, in which any by law under the said Canada Temperance Act is in operation. 49-50 V., c. 3, s. 2.

**881.** A wholesale license, to be obtained under and subject to the provisions of this section, so far as the same may apply, shall be necessary in order to authorize and make lawful any sale of liquors in the quantities allowed by subsection 8 of section 99 of the Canada Temperance Act. 49-50 V., c. 3, s. 3.

**882.** The sale of intoxicating liquors without license, in municipalities where the Canada Temperance Act is in operation, shall be held to be a contravention of the provisions of this section. 49-50 V., c. 3, s. 4.

**883.** The following duties on licenses issued under and in pursuance of subsections 3, 4 and 8 of section 99 of the Canada Temperance Act, shall be payable to the collector of provincial revenue previous to the granting of the different licenses, viz :

1. On each druggist's or other vendor's license for the sale of liquor, for sacramental, medicinal and mechanical purposes :
  - a. In cities, eighty-seven dollars and fifty cents ;

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- b. In towns, sixty-two dollars and fifty cents ;
- c. In townships and parishes, thirty-one dollars and twenty-five cents.
- 2. On each wholesale license :
  - a. In cities, one hundred dollars ;
  - b. In towns, eighty-seven dollars and fifty cents ;
  - c. In townships and parishes, seventy-five dollars. 50 V., c., 3, s. 5 ; 51-52 V., c. 10, s. 8.

**884.** All sums received for duties on such druggists' or other vendors' licenses and on wholesale licenses, issued in municipalities in which the Canada Temperance Act is in operation, shall be paid by the collector of provincial revenue to the Provincial Treasurer and shall form part of the consolidated revenue fund. 49-50 V., c. 3, s. 6.

§ 21.—*Provisions respecting Rate of Rent.*

**885.** The rent or annual value, fixing the rate of licenses in certain cases, is taken from the valuation roll for municipal purposes then in force. 41 V., c. 3, s. 64.

**886.** To every application for license, the duty whereof is regulated by the amount of the rent or annual value, there must be annexed a certificate of the valuation, contained in the valuation roll, of the house and dependencies or premises for which such license is sought, which valuation shall include, not only the room or rooms used for the purposes required for such license, but also all other rooms, in the same house and dependencies which are occupied by the licensee or intended so to be for any purpose whatever, delivered by the city clerk or secretary-treasurer, who is bound to deliver such certificate, whenever thereto required, under a penalty of fifty dollars for each contravention. 43-44 V., c. 11, s. 18.

§ 22.—*Powers of the Lieutenant-Governor as to the Reduction of the Duty on Licenses and other Provisions.*

**887.** The Lieutenant-Governor in Council may, by regulation, when and so often as he deems it expedient, reduce the rate of duty on licenses, as mentioned in article 878, provided that this rate be not below the rate imposed by the fifth section of the Imperial Act, fourteenth George III, chapter eighty-eight. 41 V., c. 3, s. 66.

**888.** The Lieutenant-Governor in Council may, upon the recommendation of the permanent exhibition committee appointed by the Council of Agriculture and the Council of Arts and Manufactures, grant licenses, at reduced rates, to sell intoxicating liquors on the grounds set apart for exhibition purposes, to have effect only during the provincial exhibition, 44-45 V., c. 4, s. 4.

**889.** The duties imposed by this section on licenses for inns, restaurants, steamboat bars, railway buffets or liquor shops, include those imposed by the said Imperial Act; but should the said act be hereafter repealed, such repeal shall not have the effect of reducing the amount of such duties. 41 V., c. 3, s. 67.

**890.** No other licenses than those issued under this section are necessary to be obtained by any person, for the same objects, from any corporation or municipal body. 41 V., c. 3, s. 68.

**891.** The obligation to take out a license for the sale of intoxicating liquors, and for billiard tables, applies to all places where such liquors are sold and where billiard tables are kept, notwithstanding that such places and tables are used by a club or association of any kind. 41 V., c. 3, s. 69; 43-44 V., c. 11, s. 20.

§ 23.—*Duties of Collectors of Provincial Revenue as regards the issuing of Licenses.*

**892.** Under the restrictions and exceptions hereinabove imposed, it is the duty of each collector of provincial revenue, on proof being furnished to him of the fulfilment of all the formalities, on payment being made to him of the requisite duties for the issue of the licenses hereinabove mentioned, and on application being made to him to issue, within the limits of his jurisdiction, any of the above licenses.

The same rule applies to the officer named for the issuing of tavern licenses at the mines. 41 V., c. 3, s. 70; 46 V., c. 6, s. 1.

§ 24.—*Penalties.*

1°—PENALTIES FOR SELLING INTOXICATING LIQUORS IN A MINING DIVISION.

**893.** The Lieutenant-Governor in Council may, by proclamation issued and published for that purpose in the usual manner, when mines are actually in operation and when the public interest requires the same, declare that this sub-section shall apply to any or all the mining divisions of the Province or to any part thereof; and, after such proclamation, whosoever, in such mining division or part thereof, sells or barbers any intoxicating liquors, within a radius of seven miles from any mine that is being worked, without having first obtained a license for that purpose from the inspector of the division, under the mining act, is liable to a fine, not exceeding one hundred dollars and costs, or, in default of payment, to imprisonment for a period not exceeding two months, in addition to the forfeiture of such intoxicating liquors found in his possession. 43-44 V., c. 12, s. 116; 45 V., c. 14, s. 2; 51-52 V., c. 10, s. 15.

**894.** Whosoever, in such mining division or part thereof, by

himself, or directly or barbers person and is intoxicating article.

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himself, or his clerk, servant or agent, exposes or keeps for sale, directly or indirectly, under any pretext, or by any device, sells or barfers for any consideration whatsoever or gives to any other person any intoxicating liquor, or any mixed liquor, part of which is intoxicating, incurs the penalties mentioned in the preceding article. 43-44 V., c. 12, s. 117; 51-52 V., c. 10, s. 15.

**895.** Whosoever, in the employment or on the premises of another, exposes or keeps, for sale, or sells or barfers or gives intoxicating liquor, in violation of the two preceding articles, is deemed to be equally guilty with his principal and incurs the same penalty. 43-44 V., c. 12, s. 118; 51-52 V., c. 10, s. 15.

**896.** In such mining division or part thereof, the delivery of intoxicating liquor of any kind, in or from any building, booth or place, other than a private dwelling house or its dependencies, or in or from any dwelling house or its dependencies, if any part thereof be used as a tavern, eating house, grocery, shop, or other place of common resort,—such delivery, in either case, being to any one not *bonâ fide* a resident therein, is *primâ facie* deemed sufficient evidence of and punishable as a sale and barfer of intoxicating liquor, in violation of the said mining act. 43-44 V., c. 12, s. 119; 51-52 V., c. 10, s. 15.

**897.** Any delivery of intoxicating liquor in or from a private dwelling house, or its dependencies, or in or from any other building or place whatever to any one, whether resident therein or not, with payment or promise of payment, either express or implied, before, on or after such delivery, is *primâ facie* deemed sufficient evidence of and punishable as a sale and barfer of intoxicating liquor in violation of the said mining act. 43-44 V., c. 12, s. 120; 51-52 V., c. 10, s. 15.

20.—PENALTIES FOR ILLICIT SALES OF INTOXICATING LIQUORS  
AND CERTAIN FRAUDULENT PRACTICES.

**898.** Any one who keeps, without a license to that effect, still in force, an inn, restaurant, steamboat bar, railway buffet, or liquor shop for the sale, by wholesale or retail, of intoxicating liquors, or sells, in any quantity whatsoever, intoxicating liquors, in any part whatsoever of this Province, municipally organized, is liable for each contravention, to a fine of ninety-five dollars if such contravention take place in the city of Montreal, and seventy-five dollars if in any other part of organized territory; and, if the contravention take place in a non-organized territory, the penalty is thirty-five dollars.

Any one who keeps, without a license to that effect, still in force, as by law prescribed, a temperance hotel, is liable, for each contravention, to a fine of twenty dollars. 41 V., c. 3, s. 71; 43-44 V., c. 11, s. 21.

**899.** Every person, in any part of the Province, selling intoxi-



bited, or allows the exhibition, in or on any part of his house or its dependencies or of his vehicles, of any sign, inscription, painting or any other sign whatsoever, of a nature to induce the public or travellers to believe that the sale of intoxicating liquors is authorized therein in any quantity, and that he is the holder of a license to that effect, is liable to a fine of twenty dollars for each contravention.

The same penalty is incurred by any licensee, who, by any of the means mentioned in this article, seeks to induce the public or travellers to believe that he holds a different license from that which has been granted to him. 41 V., c. 3, s. 78; 43-44 V., c. 11, s. 25.

**906.** Any one, not being a licensee as hereinabove mentioned, who keeps or allows to be kept in his house or dependencies, in storage or otherwise, for the purpose of making a sale thereof, any intoxicating liquors, shall be liable to a penal prosecution, in which he may be condemned to pay a fine of twenty dollars for all contraventions of this article committed up to the time of the institution of such prosecution, if it be the first so brought.

In case of repetition of the offence, he may again be prosecuted, and condemned to pay a like fine of twenty dollars, for all the contraventions committed, from the time of the first prosecution to the institution of the second, and so on for all subsequent contraventions committed in the interval between one prosecution and the other. 41 V., c. 3, s. 79.

**907.** No person carrying on any business whatsoever, and not licensed for the sale of intoxicating liquors, shall keep, in his place of business or in the dependencies thereof, any quantity whatsoever of intoxicating liquors, under a penalty of the confiscation of such liquors and a fine of thirty dollars for each offence.

2. The finding of such liquors upon such premises shall be a presumption that such liquors are there kept for the purpose of sale and proof of anterior facts may be adduced at the trial in support of such presumption. 50 V., c. 3, s. 9.

**908.** The judgment inflicting such fine shall order the confiscation of the said liquors and vessels.

The collector of provincial revenue shall have the liquors and vessels, so confiscated, sold by private sale or by auction, according to the instructions which are given him by the Provincial Treasurer, and the collector of provincial revenue shall retain one-third of the price realized, and remit the remaining two-thirds to the Provincial Treasurer. 43-44, V, c. 11, s. 26; 46 V., c. 6, s. 1.

**909.** The court, before which the complaint is heard, may upon satisfactory proof to that effect, revoke the license of a tavern-keeper who permits any one to become intoxicated in his tavern, or who allows any disorder whatsoever to occur therein, without prejudice to the other penalties imposed by-law. 44-45 V., c. 4, s. 3.

3°—OBLIGATIONS IMPOSED UPON LICENSEES AND PENALTIES  
FOR CONTRAVENTIONS.

**910.** Each inn or temperance hotel, situate in a village, or in the country parts, shall, in addition to the lodging apartments of the family, contain at least three bedrooms, having each a good bed, for the use of travellers. 41 V., c. 3, s. 81.

**911.** The master of such inn or temperance hotel shall keep in an out-house, adjacent to the main building, stalls for at least four horses, and shall always be provided with edibles and provisions for travellers, and hay and grain for their horses. 41 V., c. 3, s. 82.

**912.** Every inn or temperance hotel, in a city or town, shall contain a kitchen of sufficient dimensions, all the utensils necessary to prepare meals for at least ten persons, a dining room with a suitable table whereon to lay the cloth, and at least two bed-rooms. 41 V., c. 3, s. 83.

**913.** Every restaurant must be suitably furnished to provide meals for at least ten persons at a time. 51-52 V., c. 10, s. 11.

**914.** The master of every such inn, temperance hotel or restaurant shall, at all times, on demand of the collector of provincial revenue or his deputy, exhibit his license, which he shall keep constantly exposed to the view of the public, in the bar of his establishment, or in some other place approved of by the collector of provincial revenue. 41 V., c. 3, s. 85; 46 V., c. 6, s. 1.

**915.** He shall cause to be printed in legible characters, at least three inches high and broad in proportion, immediately above the outside of the door of his house, his name in full, with the words, where it is an inn or restaurant, "Licensed to retail spirituous liquors," or "Licensed to retail intoxicating liquors," and, where it is a temperance hotel, "Licensed to keep a temperance hotel," under the penalties mentioned in article 926. 41 V., c. 3, s. 86.

**916.** If such establishment be situate in the country parts, the master thereof must moreover expose and keep exposed, during the whole period of his license, a similar inscription (or sign), composed of letters, not less than four inches high, and wide in proportion on his house or on the top of a post, or several posts, of sufficient height close to his house, to indicate it to travellers, under the penalties mentioned in article 926. 41 V., c. 3, s. 37.

**917.** Every bottler shall cause to be painted in legible letters, of at least two inches in height and a proportionate width, on both sides of his vehicle, his name at full length, adding thereto the word "licensed," under a penalty of twenty dollars for each contravention. 43-44 V., c. 11, s. 28.

**918.** Every inn, temperance hotel, restaurant, tavern at the mines, steamboat bar and railway buffet, shall be kept peaceably, and order shall be maintained therein. 41 V., c. 3, s. 83.

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tioned in article 926 against the master of each such inn, temperance hotel, restaurant, tavern at the mines, steamboat bar and railway buffet, for each contravention. 41 V., c. 3, s. 89.

**920.** Not more than one drinking bar shall be kept therein, under the penalty mentioned in article 926. 41 V., c. 3, s. 90.

**921.** (Replaced by 52 V., c. 15 s. 8.) Intoxicating liquors shall not at any time be knowingly sold therein to drunken persons or minors, nor after the hour of eight in the evening, to soldiers, sailors, apprentices or servants, known as such of the master of the house.

**922.** Subject to the provisions of article 1111, intoxicating liquors shall not be sold in any inn or restaurant at any place in the Province, or in any tavern at the mines, on any day of the week from midnight until five o'clock in the morning, or during the whole of any Sunday in the year, unless on a special demand for medecinal purposes, signed by a medical practitioner, or by a justice of the peace, and produced by the purchaser.

The liquors, so sold on special demand, shall not be drunk on the premises.

During the times when the sale of liquors is prohibited, all the bars shall be kept closed. 45 V., c. 9, s. 2.

**923.** During the time when, under any law of this Province, the sale of intoxicating liquors is prohibited, no such liquors can be delivered to any person even gratuitously in any place of business or dependencies thereof of such licensed persons. 50 V., c. 3, s. 10.

**924.** No offender against the provisions of the two preceding articles, or against those of section fourteen of this chapter, respecting the closing of taverns, shall be liable to more than one condemnation for one and the same offence. 45 V., c. 9, s. 4.

**925.** Whilst the license is in force, with the exception of licenses for liquor shops, no trade in groceries, provisions, sweetmeats or fruits, can, within the limits of a city, be carried on in the licensed premises, either directly or indirectly, for the benefit of the licensee.

No licensee for an inn or temperance hotel can refuse to receive and harbor travellers without just cause.

No licensee for keeping a restaurant can receive or harbor travellers. 41 V., c. 3, s. 88.

**926.** Every infraction of this section by any person holding a license thereunder for the sale of intoxicating liquors shall be punishable, for a first offence by a fine of not less than thirty or more than seventy-five dollars, for the second offence by a fine of seventy-five dollars, and for the third and every subsequent offence by a fine of two hundred dollars, and, in default of payment, by the loss of the license, in accordance with articles 936, 937 and 938, and during the year no similar license shall be granted to him.

2. If, on a prosecution for a second offence, the first conviction is not proved, the court may nevertheless condemn the defendant if the proof is sufficient, and impose the penalty fixed for a first offence.

In like manner, on a prosecution for a third offence or any other subsequent offence, the court may impose the penalty fixed by law for a second or first offence, as the case may be, instead of annulling the license if the prosecution does not prove the first, or the second or the two preceding convictions, although not prayed for. 50 V., c. 3, s. 11; 51-52 V., c. 10, s. 13.

**927.** Every person holding a license for the sale of intoxicating liquors who is convicted of keeping a disorderly house, or who is sentenced to imprisonment in the common gaol with hard labor or in the penitentiary, shall incur the loss of his license in accordance with articles 936, 937 and 938, and no similar license shall be again granted to him during the five years next after the judgment of the court. 50 V., c. 3, s. 12.

#### OTHER PENAL PROVISIONS.

**928.** The husband, wife, father, mother, brother, sister, curator, tutor, or employer of any person who has the habit of drinking intoxicating liquor to excess,

The manager or person in charge of any asylum, hospital, or other charitable institution, in which such person resides or is kept,

The curator of any interdicted person,

The father, mother, brother or sister of the husband or wife of such interdicted person, or

The tutor or curator of any child of such interdicted person,

May give notice in writing, signed by him or her, to any person licensed to sell intoxicating liquors, or who habitually sells such liquors, not to sell or deliver the same to the person having such habit or to such interdicted person. 41 V., c. 3, s. 95.

**929.** If, in the course of one year from the date of such notification, the person thus notified, either personally or by his clerk, servant or agent, sell or deliver such liquors otherwise than on a special demand, for medicinal purposes, signed by a medical practitioner, to the person having such habit, or to such interdicted person, the person who had given the notice may, by an action for personal damages, (if the same be instituted within six months of the commission of the offence), recover from the defendant the sum of not less than ten dollars, or more than five hundred dollars, as it shall be adjudged by the court or jury as damages. 41 V., c. 3, s. 96.

**930.** Every person, whether a minor or of the age of majority, who purchases from any person licensed under this law or unlicensed, intoxicating liquors for a person reputed to be an habi-

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tual drunkard, is liable for each such offence to a penalty not exceeding fifty dollars or an imprisonment not exceeding three months in default of payment. 48 V., c. 8, s. 1.

**931.** Every married woman may, notwithstanding article 176 of the Civil Code, institute such an action in her own name without the authorization of her husband.

All damages recovered by her are, in such cases, for her sole use. 41 V., c. 3, s. 97.

**932.** In the case of death of either of the parties to the suit, provided that the identity of the person, to whom the liquor is sold, be known to the seller at the time of such sale or delivery, the action and the right of action, given by the three preceding articles, subsists in favor of or against their legal representatives respectively. 41 V., c. 3, s. 98.

**933.** The master of an inn, restaurant or any other house, where intoxicating liquors are sold, and every person employed by him in the establishment, are severally liable to an action of damages, towards the representatives of a person, who shall have become intoxicated by means of liquors delivered to him, by the said master or employee, and who, by reason of his drunkenness, shall have committed suicide, or died from some accident occasioned by such intoxication. 41 V., c. 3, s. 99.

**934.** This right of action, which lasts but for three months from the date of death, may be joint and several, or distinct and separate, against each of the individuals so responsible; and the representatives of the person deceased may recover a sum of not less than one hundred dollars, and not exceeding one thousand dollars, under such action for damages, if any sum be adjudged to them by the court or jury. 41 V., c. 3, s. 100.

**935.** If a person in a state of intoxication commit an assault, or damage any property, the person who shall have delivered the liquor causing such intoxication, in contravention of this section or any other law, is subject, as regards the person injured, to the same civil action of damages as he who committed the assault or damaged the property.

The responsibility is joint and several. 41 V., c. 3, s. 101.

**936.** If a licensee to sell intoxicating liquors or to keep a temperance hotel be condemned for a contravention of this section or be convicted of felony, the court pronouncing the sentence may revoke the certificate by virtue of which he obtained his license. 41 V., c. 3 s. 102; 43-44 V., c. 11, s. 30.

**937.** When the collector or provincial revenue has been informed of such revocation by the court or by the clerk of the court, he shall notify the licensee of such revocation, and thereupon, his license becomes null and void. 41 V., c. 3, s. 103; 43-44 V., c. 11, s. 31; 46 V., c. 6, s. 1.

**938.** If the licensee, who has received regular notice of such revocation and annulment of the license, continue to keep the

house or shop authorized by such license, and to sell intoxicating liquors therein, he becomes liable to the fines and penalties imposed by this section on persons who keep such houses, or sell such liquors, without a license. 41 V., c. 3, s. 104.

**939.** Every payment in money, or in objects having a pecuniary value, for intoxicating liquors, furnished in contravention of this section, is held to have been made without consideration and against law. 41 V., c. 3, s. 105.

**940.** The amount of such payment may be recovered from the receiver thereof by the party who made such payment, or by his wife without the authorization of her husband, and by his father or his tutor, if he be a minor; and all contracts and obligations whatever, in whole or in part, made and entered into, for and by reason of such furnishing of such liquors in violation of the law, are null; saving the rights of third parties. 41 V., c. 3, s. 106.

**941.** No action can be maintained for or by reason of the sale of liquors furnished in contravention of this section.

This article does not effect the provisions of article 1481 of the Civil Code. 41 V., c. 3, s. 107.

**942.** Every policeman, constable or other person thereto authorized in writing by a collector of provincial revenue, a justice of the peace, a judge of the sessions of the peace, a police magistrate or recorder, may enter any unlicensed place frequented by the public, when there is reason to suspect that intoxicating liquors are exposed for sale, and search therefor, and open, with every necessary assistance, and even forcibly upon refusal so to do, all cupboards and receptacles in which he thinks such liquors are concealed.

If such are discovered, he shall take and carry away such intoxicating liquors and the vessels containing the same, and shall place them in the care and possession of the collector of provincial revenue for the district, to await the judgment of the court respecting them. 50 V., c. 3, s. 13.

**942a.** Any member of the revenue police in uniform shall have the right to enter at all times the establishment of any person licensed under this law.

Such person shall be liable to a penalty of twenty dollars, for refusing to allow such officer to enter. (52 V., c. 15, 59.)

**943.** The following property and effects need not be sold by a licensed auctioneer, and sale thereof, by auction, are exempt from the duty mentioned in article 943b. to wit:

The moveable and immoveable property of the crown, those sold by authority of justice, those sold through confiscation, those of a deceased person, those belonging to any dissolution of community, or to any church, or which are sold at any bazar held for religious or charitable purposes, or sold for religious purposes, or which are sold in payment of municipal taxes under the municipal code or any other law regulating municipalities.

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Moveable and immoveable property, grain and cattle, sold for non-commercial purposes by the inhabitants of the rural districts, removing from the locality, and the property of minors sold by forced or voluntary licitation ;

Farm animals exhibited by agricultural societies at an exhibition and sold during the time of such exhibition.

**943a.** The following property and effects sold by auction and outcry in this Province, and adjudged to the highest and last bidder therefor, must be sold by a licensed auctioneer, to wit :

All moveable and immoveable property, effects, goods, and stocks in trade, as well as the assets of a person who has made an assignment under the law respecting the abandonment of property. The curator to the property of any person, who has made an abandonment of his property under the law may, however, himself sell such property at auction, by taking out an auctioneer's license.

**943b.** Sales by auction of immoveable property and sale by auction of household furniture and effects in use, including therein pictures, paintings and books, under the preceding article, shall be subject to a duty of one per cent on the amount thereof, which duty shall be paid by the auctioneer to the collector of Provincial Revenue out of the proceeds of the sale, at the cost of the seller, unless an express stipulation be made, in the conditions of sale, that such duty shall be paid by the buyer, in which case the duty shall be added to the price.

**944.** Moveable property, wares, merchandise, stocks in trade and assets comprising insolvent estates, sold by auction under the laws on insolvency, remain chargeable with the duty of one per cent, hereinbefore imposed, notwithstanding that the same may be sold otherwise than by a licensed auctioneer V., c. 3, s. 110.

**945.** Whosoever, not being an auctioneer duly licensed as required by the present section (such license being at the time in force), sells, by public auction and by outcry, in this Province, any property, immoveable or moveable, effects, merchandise and stocks in trade, subject to auction duty, excepting such moveable property, effects, merchandise and insolvent's stock, mentioned in the preceding article, and whosoever causes such sale, whether he be proprietor or not of the property so sold, in violation of the terms of this article, incur a penalty, for each contravention thereof, at the maximum, of the sum of one hundred dollars, and, at the minimum, of fifty dollars, in the discretion of the court pronouncing the same.

Any person who shall advertise any property for sale by him at auction over his signature, or who shall allow his name to be used in any newspaper, hand-bill, poster or other mode of advertising property for sale without first having procured a license as an auctioneer, shall incur and be liable to a penalty of fifty dollars for each such offence, which may be recovered by the

collector of provincial revenue of the district, in the same manner as provided for other offences against this section; one half of said penalty shall be paid into the provincial treasury and the remaining half to the collector of provincial revenue. 41 V., c. 3, s. 111; 43-44 V., c. 11, s. 33; 46 V., c. 6, s. 1.

**946.** Such person, selling without license, shall pay the duties on such sale, in the same manner, as if the sale had been under a license.

In addition to the penalty aforesaid, whosoever, without such license, makes a sale so prohibited, and who, within the thirty days following such sale, neglects to pay to the collector of provincial revenue or to his agent the amount of the duty on such sale, incurs a fine of twenty dollars for each day of such neglect. 41 V., c. 3, s. 112; 46 V., c. 6, s. 1.

**947.** The amount of such duty and of such penalty may be recovered by the collector of provincial revenue, by the same prosecution, and, in default of payment of the amount in principal and costs, the contravening person is liable to an imprisonment of not more than three months and not less than one month, in the discretion of the court rendering the judgment. 41 V. c. 3, s. 113; 46 V., c. 6, s. 1.

**948.** Every auctioneer shall, under a penalty of twenty dollars, keep in a book, preserved for that purpose, a detailed statement, in the form prescribed by the Provincial Treasurer, of all sales made by him, and give to the said Treasurer all information by him required from time to time. 41 V., c. 3, s. 114.

**949.** The collector of provincial revenue, his deputy, and every person authorized to that effect, by the Provincial Treasurer, shall have, at all times, access to such book, for its examination; and every auctioneer, refusing to allow such examination, incurs a penalty of fifty dollars for each contravention. 41 V., c. 3, s. 115; 46 V., c. 6, s. 1.

**950.** Within the first ten days of each of the months of February, May, August and November of each year, every licensed auctioneer shall pay to the collector of provincial revenue or to his deputy the amount of duties levied on the sales by him made, and not paid over.

He shall also furnish to the collector of provincial revenue, or his deputy, a full return, with a report in detail, signed by himself or his assistant, chief clerk, agent or partner stating the quantity of all moveable and immovable property, effects, merchandise and stocks in trade, subject to duty, which he has sold during the period not comprised in his last return, stating the amount of the sales of each day and the total amount of the sales made for each person, firm or estate.

If no sales have been made by such licensed auctioneer during said period, the same shall be mentioned in his return.

Such return shall, in both cases, be attested, under the oath of

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affirmation of the person making the same. 41 V., c. 3, s. 116; 46 V., c. 6, s. 1.

**951.** The collector of provincial revenue, or his deputy, may receive such oath or affirmation, and may put to the person making the same all such questions as he may think fit, to which questions the deponent or affirmant shall make answer, under the sanction of the same oath or affirmation. 41 V., c. 3, s. 117; 46 V., c. 6, s. 1.

**952.** Every auctioneer and every person who sells by auction goods charged with the duty of one per cent, but which goods may be sold by a person other than an auctioneer, who neglects to pay the amount of the duties, and to make the return aforesaid, in the required form, incurs a penalty of twenty dollars for each day he neglects so to do. 41 V., c. 3, s. 118.

**953.** The amount of duties received, and not paid over, may be recovered with costs, in the same prosecution as that for the penalties.

The person, so in default, becomes liable to have his license declared forfeited, and such license, from the day a notice, to that effect, is inserted by the collector of provincial revenue in the Quebec Official Gazette, is revoked, null and void, and no new license can be granted to such defaulter, until entire payment be made of the amount due in principal and costs. 41 V., c. 3, s. 119; 46 V., c. 6, s. 1.

**60.—DUTIES IMPOSED UPON PAWNBROKERS, AND PENALTIES FOR CONTRAVENTIONS.**

**954.** Whosoever carries on the business of pawnbroking, or whosoever lends on pawn, without having a license to that effect, still in force, incurs a penalty of two hundred dollars. 41 V., c. 3, s. 120. *As to rates to be taken by pawnbrokers. See R. S. C., c. 128.*

**955.** No person shall keep more than one house, shop or place of business, for taking goods in pawn on money loans, under a single license under penalty of fifty dollars for each week during which he contravenes this article. 41 V., c. 3, s. 121.

**956.** Every pawnbroker shall expose, on the outside of the door of his house, shop or place of business, a sign bearing his name, with the word "pawnbroker" written or printed thereon in large letters.

He shall also cause to be painted or printed in plain letters, and place in a prominent part of his shop, a graduated scale of the rates the laws allows him to charge on loans, and of the remuneration he is entitled to exact in certain cases, on the memoranda or notes he is obliged to keep in the manner provided in the following articles, as well as mentioning those he is obliged to keep gratuitously, under a penalty in each of these cases of

forty dollars, for each week of his default so to do. 41 V., c. 3, s. 122.

**957.** Before making a loan, he shall enter in a book, kept for that purpose, a description of the articles received in pawn, mentioning the sum loaned, the date of the month and year of the loan, the name of the pawner, the street he lives in, and the number of his dwelling, if it be numbered. 41 V., c. 3, s. 123.

**958.** The entry must specify whether the pawner be a proprietor, tenant or sub-tenant, or if he be merely a boarder in the house, using the letter (P) if he be a proprietor, (T) if be a tenant, (S) if he be a sub-tenant, (B) if he be a boarder. The name of the proprietor of the house, as given by the pawner if he be not the proprietor, shall also be entered. 41 V., c. 3, s. 124.

**959.** Every article on which a loan is effected shall be entered in a book kept monthly for that purpose, and shall be carefully kept.

These entries shall be made in order of the receipt of the articles, and be designated by numbers; the first article received bearing No. 1, and so on to the end of the month; and each memorandum mentioned in the following article, relative to the object placed in pawn, shall be inscribed with a number corresponding to the entry made in the book. 41 V., c. 3, s. 125.

**960.** When taking articles in pawn, the pawnbroker shall give to the pawner a memorandum or note, containing the description of the articles pawned, the name, place of residence of the pawner, the number of his house, and the indication of his quality, whether proprietor, tenant, sub-tenant or boarder, using the letters herein above indicated in article 958. On the back thereof the name and residence of the pawner shall be mentioned. 41 V., c. 3, s. 126.

**961.** The pawner shall take up such memorandum, and if he fail to do so, the pawnbroker is forbidden to keep the articles in pawn. 41 V., c. 3, s. 127.

**962.** If the sum loaned be less than one dollar, the memorandum is given gratuitously; if it be for more than one and less than two dollars, the pawnbroker may exact one cent for giving the same; two cents if it be two dollars or above that amount, but does not reach the sum of five dollars or more, but does not reach the sum of twenty-five dollars; and seven cents if the sum loaned be twenty-five dollars or more. 41 V., c. 3, s. 128.

**963.** No pawnbroker shall receive any money or valuable consideration whatever, for the keeping or storage of articles placed in pawn. 41 V., c. 3, s. 129.

**964.** No pawnbroker is obliged to return the articles placed in pawn, unless the pawner remit to him the memorandum, except in the case hereinafter mentioned in article 971. 41 V., c. 3, s. 130.

**965.** A duplicate of the memorandum shall be attached to the articles placed in pawn, and, when the said articles are returned,

the pawn made up one year.

**966.** If, after the pawn, the pawnbroker, within the time, the pawnbroker refuses, or is detained, or is two justices of the peace has been a broker and if any they

**967.** If, after the loan of one year, the pawnbroker profits. 41

**968.** If, after the loan, the pawnbroker offers to him the articles, the justices of the peace to be imprisoned, the offence was of the article 41

**969.** Any pawnbroker, and on so far as re the articles p

**970.** The memorandum, shall be relieved previously no him to deliver 3, s. 136.

**971.** In the case of a pawnbroker, and if he is employed or stolen, (the article) the pawnbroker shall give to the proprietor, a copy of the circumstances of the pawn, and be sworn to by the pawnbroker.

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the pawnbroker shall write, on each duplicate, the rate of profit made upon such articles, and keep one of these duplicates during one year. 41 V., c. 3, s. 131.

**966.** If, in the course of one year from the date of the pawning, the pawner offer to the broker the amount in principal of the loan, with the legal profits accrued, and deliver up, at the same time, the memorandum above referred to, and the pawnbroker refuses, without reasonable cause, to return the articles by him detained, the pawner may declare the fact, under oath, before two justices of the peace of the district where the contravention has been committed, who shall summon before them the pawnbroker and the pawner, and examine them, with their witnesses, if any they offer. 41 V., c. 3, s. 132.

**967.** If the tender of the memorandum, of the principal amount of the loan and the profits, within the above mentioned delay of one year, be proved under oath, the justices of the peace shall order the immediate restitution of the articles placed in pawn, the pawnbroker to receive such memorandum, principal and profits. 41 V., c. 3, s. 133.

**968.** If, notwithstanding such order so given to him and the offers to him made, the pawnbroker persist in his refusal to deliver the articles, or to pay the value thereof, according as the justices of the peace shall have adjudicated, they shall cause him to be imprisoned in the common gaol of the district in which the offence was committed, and he is there detained, until restitution of the articles pawned or until full payment of their value to the pawner. 41 V., c. 3, s. 134.

**969.** Any person who presents the memorandum to the pawnbroker, and offers him the payment of the loan, and the profits, is, in so far as regards the pawnbroker, held to be the proprietor of the articles placed in pawn. 41 V., c. 3, s. 135.

**970.** The pawnbroker, on receipt of payment and of the memorandum, shall hand over to him the articles pawned, and he is then relieved from all responsibility, unless he shall have been previously notified, in writing, by the real proprietor, forbidding him to deliver the said articles to any other than himself. 41 V., c. 3, s. 136.

**971.** In the case of such a notice being received by the pawnbroker, and likewise where the memorandum has been lost, destroyed or stolen from the pawner, or fraudulently obtained from him, (the articles remaining in the hands of the pawnbroker,) the pawnbroker shall give to the person, who pretends to be the proprietor, a copy of the memorandum, with a form of an affidavit of the circumstances, which are stated to him, which affidavit shall be sworn to by the pretended proprietor before a justice of the peace.

On verbal notice given, in the presence of a witness, by the pretended proprietor to the pawnbroker and to the pawner, of the

time and place when and where they should attend before the justice of the peace, provided that one day elapses between the day of notice and that of attendance, the justice of the peace, at the time and place indicated, hears the parties and their witnesses under oath, and examines the documents produced, and awards the articles claimed to him who established his right of ownership. 41 V., c. 3, s. 137.

**972.** The judgment shall be in writing and shall be delivered by the justice of the peace to him who shall be declared to be the owner, who, upon delivering it, in the presence of a witness, to the pawnbroker, acquires the right to redeem the articles.

If the pawner make default, the statement under oath of the pretended proprietor of such article establishes his right of proprietorship. 41 V., c. 3, s. 138.

**973.** In the case where, for some one of the reasons above mentioned, the pawner cannot produce the memorandum, and no other person claims the articles pawned, his affidavit given, as hereinbefore provided, constitutes sufficient proof of his right of ownership.

In either case, the pawnbroker must return the articles, on receiving what is due to him thereon, and, on his refusal to return them, he is subject to the penalties contained in article 992.

All these proceedings are without costs. 41 V., c. 3, s. 139.

**974.** If the loan do not exceed one dollar, the pawnbroker has a right to receive two cents for the copy and affidavit, four cents, if the loan be more than one dollar and do not exceed five dollars, and, if the loan exceed five dollars, the pawnbroker shall receive five cents. 41 V., c. 3, s. 140.

**975.** The pawnbroker shall sell, by public auction, all articles pawned, but not redeemed within one year from but exclusive of the day of pawning, without the formality of a judgment to that effect, notwithstanding article 1971 of the Civil Code. 41 V., c. 3, s. 141.

**976.** A catalogue containing the name and residence of the pawnbroker, a description, separately, of the articles, their number, the date when pawned, and notice of the sale containing the above mentioned particulars, and the day, hour and place of sale, shall be inserted in some newspaper in the locality, or, in case there is no newspaper published there, then, in the nearest locality wherein a newspaper is published, not less than three days previous to such sale; and, in the interval between the publication and the sale, the articles shall be exposed to view and open to public inspection. 41 V., c. 3, s. 142.

**977.** So long as such sale has not taken place, the pawner may redeem the articles pawned, on paying to the pawnbroker what is due on them, and the pawner's share of the expenses incurred by the publication mentioned in the preceding article, and which share shall be the proportion, which the sum loaned

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the articles redeemed bears to the total sum loaned on the articles mentioned in such publication. 41 V., c. 3, s. 143.

**978.** If the articles be not separately described in the catalogue, the pawnbroker shall pay to the owner thereof a sum of not more than forty dollars, and not less than eight dollars, to be recovered in the same manner as penalties under this section. 41 V., c. 3, s. 144.

**979.** Every pawnbroker shall enter in a book, kept for the purpose, an exact account of the sales by auction of pawned articles, indicating therein the date when the articles were pawned, the name of the pawner, the date of the sale, the name and residence of the auctioneer, and the amount of such sale. 41 V., c. 3, s. 145.

**980.** If the amount of the sale exceed the loan, in principal and profits, the surplus shall be paid, after deducting the expenses of the catalogue and the auction fees incurred, to the person in whose name the articles were pawned, in the proportion of the amount of the sale to the total amount of the articles comprised in the catalogue, provided a demand for such surplus be made within three years from the sale. 41 V., c. 3, s. 146.

**981.** The pawner, or the person in whose name the articles were pawned, has a right to inspect the entry made of such sale, within the aforesaid delay of three years. 41 V., c. 3, s. 147.

**982.** If the pawnbroker made no such entry in such book, if he refuse an inspection of such entry to the pawner or his representatives, if the articles have been sold for a greater sum than is entered in such book, if he did not sell the articles in conformity with the foregoing provisions, if he refuse to pay the surplus of the sale, if the articles have been sold before the time limited, if they be not forthcoming or have become depreciated in value, while so pawned, in each such case, the pawnbroker incurs a penalty of forty dollars and shall pay to the pawner, as damages, the amount loaned, to be recovered before two justices of the peace of the district, reserving to the pawner his ordinary recourse for any excess of damages, if such there be. 41 V., c. 3, s. 148.

**983.** No pawnbroker shall, except at public auction, purchase, either directly or indirectly, any articles pawned with him. 41 V., c. 3, s. 149.

**984.** No pawnbroker shall receive articles in pawn from a person appearing to be under fifteen years of age, or appearing to be under the influence of intoxicating liquor, or buy or take in pawn a memorandum or note aforesaid of any other pawn-broker; or receive in pawn on any Sunday or holiday, or on any other day before eight o'clock in the morning or after eight o'clock in the evening, except Saturday evening and the evenings preceding Good Friday and Christmas, when he may keep his shop open till ten o'clock at night. 41 V., c. 3, s. 150.

**985.** The justices of the peace, if they consider it necessary, may compel the pawnbroker to produce his pawnbook, memoranda, vouchers and all documents pertaining thereto in his possession; and he shall produce these vouchers and documents in the state they were when the pawn was received by him. If he neglect or refuse to appear and produce these documents, he becomes liable to the penalties hereinafter imposed, unless he show sufficient cause to the contrary. 41 V., c. 3, s. 151.

**986.** On demand of the collector of provincial revenue, every pawnbroker shall exhibit to him all his books, and the entries therein, and afford to him an examination of the same; such officer may, during business hours, visit and examine the shop of such pawnbroker. 41 V., c. 3, s. 152; 46 V., c. 6, s. 1.

**987.** If any person pawn the property of another, without the authority so to do of the owner, any two justices of the peace may grant a warrant to cause the arrest of the offender, and, on conviction, he incurs the penalty hereinafter mentioned and forfeits the value of the property pawned, which is paid to the owner thereof, and may be recovered at the same time and in the same manner as the penalty. 41 V., c. 3, s. 153.

**988.** Every person, who knowingly receives in pawn from a journeyman mechanic any goods of any manufacture, either separate or mixed with others, or materials plainly intended for manufacturing purposes, when these goods or materials are in course of preparation, but before completion and being exposed for sale, or any goods, materials, linens, or apparel, which have been entrusted to any person to wash, scour, iron, mend, or manufacture, for any purpose of a like nature, and is convicted thereof, shall forfeit the sum lent thereon, and forthwith restore the goods to the owner. 41 V., c. 3, s. 154.

**989.** In all the cases mentioned in the preceding article, the owner establish by the oath or affirmation of a witness, before a justice of the peace of the district wherein the offence has been committed, that there is reason to believe that any person has taken to pawn any such goods, such justice of the peace may issue a warrant for searching, within the hours of business, the books, house, shop or any other place occupied by the person suspected; and, if such person refuse to exhibit to the officer charged with such warrant and authorized to search his pawnbook, the goods pawned, or to allow admittance to such house, shop or other place, such officer may forcibly enter such house, shop or other place and dependencies and make such search where he thinks fit for the goods in question, taking care to do no wilful damage. 41 V., c. 3, s. 155.

**990.** If the pawned goods, or any part of them, be found and the owner thereof establish by proof, to the satisfaction of the justices of the peace, by the oath or affirmation of a witness, or by the admission of the suspected person, that they

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**992.** If pawnbroker is punished fifty dollars

**993.** If house to be and merchandise 870, without described, if he sells, but 3, s. 159.

**994.** Every of the peace without a license of the peace with purpose of but he shall longer space 41 V., c. 6, s. 1

**995.** Every to such collector upon his request in the same justices of the peace, provided warrant of arrest becomes liable to exhibit his license

**996.** Every with a license which his owner whom such license for each contr

belong to such owner, the justices of the peace shall cause the same to be forthwith returned to such owner, and the occupant of such house, shop and other place shall incur the penalty mentioned hereinafter. 41 V., c. 3, s. 156.

**991.** The provisions of this section, regarding pawnbrokers and pawners, extend to their representatives, but the latter shall not be liable to any penalty, unless incurred through their own acts. 41 V., c. 3, s. 157.

**992.** Every contravention of the above articles relative to pawnbrokers, wherein a penalty is not thereby specially imposed, is punishable by a fine of not less than ten dollars, or more than fifty dollars, in the discretion of the court. 41 V., c. 3, s. 158.

70.—FINES AND PENALTIES AGAINST PEDLARS.

**993.** Every pedlar, travelling from town to town, and from house to house in this Province, to sell or expose for sale goods and merchandise, with the exception of those exempt by article 870, without being the holder of a pedlar's license, as hereinabove described, is liable to a fine of forty dollars for each article which he sells, barter or delivers, under any title whatsoever. 41 V., c. 3, s. 159.

**994.** Every collector of provincial revenue, constable or officer of the peace, may arrest and detain every pedlar trafficking without a license as aforesaid, and bring him before two justices of the peace where such contravention has been committed, for the purpose of immediately prosecuting him for such contravention; but he shall not be detained, without warrant of arrest, for any longer space of time than forty-eight hours. 41 V., c. 3, s. 160; 46 V., c. 6, s. 1.

**995.** Every licensed pedlar who refuse to exhibit his license to such collector of provincial revenue, constable or peace officer, upon his request, and, after the lapse of a reasonable delay, may, in the same manner, be arrested and brought before two such justices of the peace, and be detained, until he has exhibited his license, provided that, in either case, he be not detained, without warrant of arrest, for more than forty-eight hours. Such pedlar becomes liable to a penalty of five dollars for each refusal to exhibit his license. 41 V., c. 3, s. 161; 46 V., c. 6, s. 1.

**996.** Every pedlar, who leases or lends his license, or traffics with a license granted to another person, or with a license in which his own name is not inserted, as the name of the person to whom such license has been granted, incurs a fine of forty dollars for each contravention. 41 V., c. 3, s. 162.

8°—REGULATIONS RESPECTING FERRIES, AND PENALTIES FOR CONTRAVENTIONS.

**997.** The Lieutenant-Governor in Council may make and revoke, as required, the regulations he deems proper for the following purposes, viz.

1. To establish the extent and the limits of ferries;
2. To define the modes and conditions of the issuing of licenses, the time for which they are issued, and the duty or sum payable for such licenses;
3. To fix the tariffs and rates for which persons and goods shall be crossed on such ferries, and the manner in which such tariffs and rates shall be published, and the places of such publication;
4. To fix the time, the hours and the fractions of hours, during which the vessels employed on such ferries shall cross and recross, or start from one side or the other of such ferry for that purpose;

To impose fines for every contravention of such regulations.

Such regulations have, during the time for which they shall be in force, the same effect as if they formed part of this section. 41 V., c. 3, s. 163.

**998.** The Provincial Secretary shall cause to be published all the regulations established, as aforesaid, in the French and English languages, in the Quebec Official Gazette, at least three times during the three months which follow their date, and every number of the Gazette containing a copy of such regulations or of any of them, is proof of their existence. 41 V., c. 3, s. 164.

**999.** The proprietor, master or person in charge of any vessel employed for the transport of persons or goods over a ferry, as above stated, is considered to have acted as ferryman, within the meaning of this section, and is liable to all the fines imposed under its authority, if he infringe the same, by acting in such manner. 41 V., c. 3, s. 165.

9°—PENALTIES RELATIVE TO KEEPING BILLIARD TABLES.

**1000.** Any one who keeps for gain a billiard table, without having a license still in force to that effect, as hereinbefore stated, render himself liable to a fine of fifty dollars for each table so kept by him. 41 V., c. 3, s. 166.

**1001.** All sums of money or value paid, furnished or promised, directly or indirectly, by those who play upon such billiard tables to the keeper of the same, his employees or representatives, for so playing on the same, is considered gain within the meaning of this section. 41 V., c. 3, s. 167.

**1002.** Every person, holding a license for a billiard table, shall cause to be painted or engraved, upon such table, in visible

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and legible characters, the number of the license by virtue of which he is authorized to keep such table; and he shall also cause the said license to be exposed, in a prominent and visible manner, in the apartment in which such billiard table is placed. 41 V., c. 3, s. 168.

**1003.** Every such person incurs a fine of fifty dollars for each week during which he contravenes the provisions of the preceding article; all persons likewise, who intentionally remove, deface or conceal any number so painted or engraved, incur a like fine of fifty dollars for each contravention. 41 V., c. 3, s. 169.

10.—FINES AND PENALTIES RELATIVE TO POWDER MAGAZINES AND THE SALE OF POWDER.

**1004.** Any person who keeps or makes use of a powder magazine for the storage of powder, without a license, shall be liable to a penal prosecution under which he may be condemned to a fine of five hundred dollars, for all contraventions of this article committed up to the time of the institution of such prosecution, if it be the first, and, in case of a repetition of the offence, he may be against prosecuted and condemned to pay a like fine of five hundred dollars for all contraventions committed in the interval between the first prosecution and the second, and, so on, from one prosecution to another. 41 V., c. 3, s. 170.

**1005.** Every building used for the storage or keeping of any quantity of powder, exceeding in weight twenty-five pounds, is held to be a powder magazine, within the meaning of this section. 41 V., c. 3, s. 171.

**1006.** No person shall keep for his own use, and not for sale or storage, in any building other than a powder magazine, any quantity of powder weighing more than ten pounds; and in keeping it he shall store it in a metal box or case, at a sufficient distance from all inflammatory agents, such as a lamp, candle, light, gas, stove, stove-pipe, hearth or fire, (and the above enumeration shall not be limitative,) or otherwise he shall be liable to a penal prosecution, in which he may be condemned to the payment of a fine of twenty dollars in the same manner and in accordance with the rules mentioned in article 1004 for all contravention of this article. 41 V., c. 3, s. 172.

**1007.** No provision of this section applies to powder magazines, or to the magazines of Her Majesty, nor does it affect the transportation, by the troops of Her Majesty, on military service, of the munitions of war, going into or coming from powder magazines of Her Majesty. 41 V., c. 3, s. 173.

**1008.** Every person who sells or keeps for sale, whether by wholesale or retail, any quantity of powder, without having obtained a license to that effect, renders himself liable to a fine of

ten dollars for each sale; and a similar penalty for keeping powder for sale. 41 V., 3, s. 174; 43-44 V., c. 11 s. 34.

**1009.** Every person keeping powder for sale shall constantly keep, conspicuously designated, the part or parts of the building, where the powder is lodged, and keep placed, above the entry of such building, a sign bearing these words: "Licensed to sell powder," under a penalty of a fine of five dollars, for each week, during which he contravenes this article. 41 V., c. 3, s. 175; 43-44 V., c. 11, s. 35.

**1010.** The Lieutenant-Governor in Council may, from time to time, make the necessary regulations conformably to the provisions of this section, for the reception, transportation, storage and delivery of powder. 41 V., c. 3, s. 176.

**1011.** No quantity of powder shall be stored, kept, removed, received or delivered, except in conformity with the provisions of this section, and the regulations made or which shall be made by virtue of the preceding article. 41 V., c. 3, s. 177.

**1012.** These regulations may impose penalties for every infraction, or for all infractions of the provisions of this section, relative to powder, for which no penalty has been imposed. 41 V., c. 3, s. 178.

**1013.** Every proprietor and lessee of any powder magazine are personally liable for all the penalties imposed, for the contravention of any regulation made by virtue of this section, respecting the removal of powder coming from or going to such powder magazines. 41 V., c. 3, s. 179.

**1014.** The Lieutenant-Governor in Council may, through the intermediary of any functionary, or such person as he may name for that purpose, acquire from the Government of the Dominion of Canada, or from any person whomsoever, or he may cause to be built, one or several powder magazines within the limits of this Province. 41 V., c. 3, s. 180.

**1015.** The Lieutenant-Governor in Council may also appoint or employ the functionaries or persons he deems necessary for the care, maintenance and the general service of every powder magazine, with such remuneration as he considers reasonable. 41 V., c. 3, s. 181.

**1016.** These powder magazines may be kept and guarded, for the benefit of the Province, by the functionaries or persons, mentioned in the preceding article, or may be leased to private persons, or to companies, on the conditions and in the manner determined upon by the Lieutenant-Governor in Council, in both cases, in conformity with the provisions of this section. 41 V., c. 3, s. 182.

**1017.** The rates, which may be demanded and received for the storage of powder in such magazines, are fixed by the Lieutenant-Governor in Council. 41 V., c. 3, s. 183.

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terms and conditions as he deems fit, authorize the Provincial Treasurer to pay a subsidy to one or more persons, to assist in the construction of any powder magazine, near to but outside the radius of five miles of the cities of Quebec and Montreal, erected under the provisions of this section, provided that such subsidy shall not exceed the amount of one-third of the price of the powder magazine, and that the plans, specifications, demand of tenders and the contract for such building, shall have been previously approved of by the Commissioner of Public Works. 41 V., c. 3, s. 184; 50 V., c. 7, s. 12.

**1019.** The Lieutenant-Governor in Council may, from time to time, but on the conditions and under the regulations he deems fit, permit the storage of powder in quantities exceeding one hundred pounds, in the vicinity of public works, railways, canals, or other similar works of a public nature, or, generally speaking in the country parts, and exempt such storage, in the case of each of such works, from the operations of the provisions or of any one of the provisions of this section. 41 V., c. 3, s. 185.

**1020.** The Lieutenant-Governor in Council may, on such conditions and under such regulations as he deems fit, permit the storage of gunpowder and other explosives in the vicinity of any quarries being worked in the Province of Quebec, although the same may be in proximity to cities or towns. 48 V., c. 9, s. 1.

110.—PENALTIES RELATIVE TO CIRCUSES AND MENAGERIES.

**1021.** No person, but one holding a licence to that effect, shall open or exhibit a circus or menagerie, under penalty of a fine of one hundred dollars, for each performance, representation or exhibition. 41 V., c. 3, s. 185.

**1022.** Every person, opening or exhibiting a circus or menagerie, shall show his license to the collector of provincial revenue, or to one of his deputies, or to any person authorized to that effect by the collector of provincial revenue on a simple demand, verbal or written, on his part, and, in default of so doing, such person is held to have no license, and is punishable accordingly. 41 V., c. 3, s. 187; 46 V., c. 6, s. 1.

**1023.** The collector of provincial revenue or one of his deputies, or any other person, authorized to the effect, by the collector of provincial revenue may, on a warrant obtained, on satisfactory proof by affidavit, and signed by a judge of the Superior Court or district magistrate, or a justice of the peace, seize the animals, goods, and effects forming part of a circus or menagerie, for the opening or exhibition of which no license shall have been taken, or for which there has been a refusal to show the required license; and may, without any other preliminary judgment or formality, sell and adjudge, at public auction, the animals, goods and effects

so seized for the amount of the fine incurred, and costs of the sale. 41 V., c. 3, s. 188; 46 V., c. 6, s. 1.

§ 25.—*Inquiry into infractions and the particular duties of Collectors of Provincial Revenue relative thereto.*

**1024.** Each collector of provincial revenue personally, or by his deputy or any other person by him appointed to that effect, shall, within the limits of his district, make a careful search for infringements of this section, and, to this effect, he shall visit at least once a year:

1. Every powder magazine, and every place where powder is kept for sale or on storage;

2. Every shop, or place of business of a pawnbroker and auctioneer;

3. Every saloon or public or private place, where any billiard table, pigeon-hole board, Mississippi board, or bagatelle board, is kept or supposed to be kept for gain;

4. Every steamboat or vessel on board of which are sold intoxicating liquors;

5. Every inn, restaurant and temperance hotel, railway buffet and liquor shop. 41 V., c. 3, s. 189; 46 V., c. 6, s. 1.

**1025.** Every master of a house, steamboat or vessel, of which the visit and inspection are hereinabove authorized, refusing admission to such collector of provincial revenue, his deputy, or other person authorized by him or a justice of the peace anywhere, and any other person hindering the visit and inspection in question, or molesting a policeman in the execution of his duty, relative to these objects, becomes liable to a fine, not exceeding fifty dollars and not less than eight dollars, for each contravention. 41 V., c. 3, s. 190; 43-44 V., c. 11, s. 36; 46 V., c. 6, s. 1.

**1026.** It is the duty of the collector of provincial revenue to prosecute contraventions of this section, whenever he is requested so to do by a municipal corporation and such corporation has assumed the responsibility for the costs to be incurred.

1. In any municipality where a prohibitory by-law is in force, or where the council thereof prohibits confirmation of certificates to obtain licences for the sale of intoxicating liquors, it shall be the duty of the council of such municipality to prosecute all offences against this section, in which case the municipality shall be responsible for all costs, and shall receive the whole fines collected for contravention thereof.

3. In case, however, such council refuse to prosecute for infractions of the said section, when notified thereof, it shall be lawful for the collector of provincial revenue to prosecute the offenders, at the cost of the municipality.

All fines collected in such cases, at the suit of the collector of provincial revenue, shall be distributed, one quarter to the muni-

cipality, quarter to the collector, and quarter to the revenue fund. s. 37; 41 V., c. 3, s. 188.

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ality, one quarter to the collector of provincial revenue, one quarter to the informer, and the remainder to the consolidated revenue fund of the Province. 41 V., 3, s. 191; 43-44 V., c. 11, s. 37; 44-45 V., c. 4, s. 6; 46 V., c. 6, s. 1.

**1027.** It is the duty of the collector of provincial revenue to institute such prosecutions wherever he has reason to believe that a contravention of the law has been committed and that such prosecutions can be maintained. 50 V., c. 3, s. 14.

**1028.** Whenever the collector of provincial revenue is called upon to institute a prosecution, he may, if he has reason to believe that the prosecution cannot be maintained, exact from the person asking for the institution of such prosecution the deposit of a reasonable amount to cover costs. 50 V., c. 3, s. 15.

§ 26.—*Prosecutions.*

10.—GENERAL PROVISIONS.

**1029.** The fines and penalties, imposed by this section or by the regulations made under its authority, and the duties and fees exigible under the same, shall be recovered in the manner and before the courts hereinafter indicated. 41 V., c. 3, s. 194.

**1030.** Every prosecution shall be brought in the judicial district where the contravention has been committed, or in that where the contravening person resides.

If the contravention has been committed on board a steamboat or other vessel, the prosecution may be instituted in any judicial district whatsoever of the Province, and,

If the contravention have taken place on the borders of two adjacent districts where it is difficult to determine in which of said districts the offense was committed, the prosecution may be instituted in either of said districts. 41 V., c. 3, s. 195.

**1031.** All actions or prosecutions, when the amount claimed does not exceed two hundred dollars, may, at the option of the prosecutor, be brought before the Circuit Court, but without any right of evocation therefrom to the Superior Court, or before two justices of the peace, in the judicial district, or before the judge of the sessions of the peace, or before the recorder's court or the recorder, or before the police magistrate, the district magistrate or any other officer having the powers of two justices of the peace; but, if the amount claimed exceeds two hundred dollars, such actions or prosecution shall be brought before the Superior Court. 50 V., c. 3, s. 16.

**1032.** In the Circuit Court and Superior Court, the service of the summons and of the other proceedings in these prosecutions and actions is made in the manner provided for suits between lessors and lessees. 41 V., c. 3, s. 197; 43-44 V., c. 11, s. 39.

**1033.** Except as regards actions brought in the Superior

Court or Circuit Court, service of the summons is made by any bailiff or constable, appointed for the judicial district where the prosecution is instituted, by leaving a copy, certified by the magistrate, judge, or functionary or the advocate of the prosecutor, who has signed the original, with the defendant personally, or a grown and reasonable person of his family at his domicile or place of business. 41 V., c. 3, s. 198; 49-50 V., c. 34, s. 1.

**1034.** The service by a bailiff shall be certified under his oath of office, and that made by a constable shall be proved by means of a return, sworn to before a justice of the peace, in the judicial district, or before the court.

Before the other courts, the services of proceedings and convictions are made in the same manner as the service of the summons. 41 V., c. 3, s. 199.

**1035.** In all prosecutions under the authority of this section, before the Circuit Court and the Superior Court, the procedure shall be summary, and be the same, *mutatis mutandis*, as that prescribed in articles 887 to 889 of the Code of Civil Procedure. 41 V., c. 3, s. 200; 51-52 V., c. 26.

**1036.** In all prosecutions instituted before two justices of the peace, a judge of the sessions of the peace, a recorder's court, a recorder, police or district magistrate or other officer having the powers of two justices of the peace the provisions of chapter 178 of the Revised Statutes of Canada concerning summary proceedings before justices of the peace and the provisions of articles 2713 to 2720 of the Revised Statutes apply. 41 V., c. 3, s. 201; 50 V., c. 3, s. 16.

## 20.—IN WHOSE NAME PROSECUTIONS ARE INSTITUTED AND PROCEDURE THEREON.

**1037.** (*Amended by 52 V., c. 15, s. 11.*) Actions or prosecutions for contraventions of this section are brought in the name of the collector of provincial revenue for the district in which the offence has been committed, or in the name of the municipality of the city, town, or other local municipality, where such offence has been committed. 41 V., c. 3, s. 292; 46 V., c. 6, s. 1.

**1038.** But such prosecutions, instituted by a municipal corporation, and the judgment rendered on such prosecution, become of no effect, if a prosecution be brought by the collector of provincial revenue, and cannot be pleaded thereto, unless the amount sued for, by such corporation, has been paid as required by law, or the defendant has undergone the imprisonment, to which he has been condemned in default of payment. 41 V., c. 3, s. 203; 46 V., c. 6, s. 1.

**1039.** It is not necessary to allege, in a prosecution instituted under the authority of this section, in the declaration, information, complaint or summons, negative facts, or any facts which devolve upon the defendant to prove. 41 V., c. 3, s. 204.

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**1040.** Several cases of contravention, committed by the same person, may be cumulated in one and the same declaration, information, complaint or summons, provided that such declaration, information, complaint or summons contain specifically a statement of the time and place of each contravention; and, in such case, the forms indicated by this section shall be modified, *mutatis mutandis*; but no further additional fees shall be allowed to the advocates, than if there had been only one offence. 41 V., c. 3, s. 205; 43-44 V., c. 11, s. 40; 49-50 V., c. 34, s. 1.

**1041.** If the prosecution be brought before a court, other than the Circuit Court or the Superior Court, the amount of the fine and penalty shall not exceed, in the same prosecution, one hundred dollars, notwithstanding the number of offences. 41 V., c. 3, s. 206.

**1042.** Before every court, except the Superior Court and Circuit Court where the ordinary rules of procedure in reference to amendements prevail, any declaration, information, complaint or summons may, on application of the prosecutor to the effect, be amended in substance or in form, without costs.

Upon such amendment, the defendant may obtain a further delay, in which to make his defence and proof. 41 V., c. 3, s. 207.

**1043.** Any husband, living and residing with his wife, when any contravention of this section is committed by her whether she is a public trader or not, may be prosecuted and convicted, in the same manner, as if he himself had contravened this section. 41 V., c. 3, s. 208.

**1044.** In every prosecution, under this section, before any court, other than the Superior Court or Circuit Court, in which courts the ordinary rules of procedure as to the taking of evidence prevail, the court may summon before it any person represented to it as a material witness therein; and, if such person refuse or neglect to attend on such summons, the court, if, from affidavits or from the circumstances of the case, it be of opinion that the witness refuses to appear and thereby the ends of justice may be defeated, may issue its warrant for the arrest of such person; and, thereupon, he shall be brought before the court, and if he refuse to be sworn, or to affirm, or to answer any questions touching the case, he may be committed to the common gaol, there to remain, until he consents to be sworn or to affirm, and to answer. 41 V., c. 3, s. 209.

**1045.** If, in addition to the cases mentioned in the preceding article, any person summoned as a witness to give evidence before a court touching any of the matters relative to this section, neglect or refuse to appear at the time and place appointed for that purpose, without reasonable excuse, and in respect of the reasonableness of which excuse, the court seized with the prosecution shall decide, or, appearing, refuse to give evidence upon

oath, shall incur, for such neglect or refusal, a penalty of forty dollars even though the prosecution may have terminated, without his having appeared or given evidence. 41 V., c. 3, s. 210.

**1046.** Upon the demand of either party, the court may, in its discretion, receive and cause to be taken in writing the depositions of the witnesses then and there present, and postpone the trial to a further day fixed for that purpose. 41 V., c. 3, s. 211.

**1047.** Every person, other than the defendant, summoned or examined as a witness in any prosecution brought under this section, is bound to answer all questions put to him, which are pertinent to the issue, notwithstanding any declaration on his part, that his answers may disclose facts tending to subject him to any penalty imposed by this section; but such evidence shall not be used against him in any prosecution. 41 V., c. 3, s. 212.

**1048.** No defendant shall be examined as a witness, in any prosecution under this section. 41 V., c. 3, s. 213.

**1049.** In prosecutions for the sale, without license, of intoxicating liquors, it shall not be necessary that any witness should depose to the precise description of the liquors sold, nor shall it be necessary to state the quantity of liquor sold, except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale of more or less than such quantity. 41 V., c. 3, s. 214.

**1050.** Rigorous precision as to the mention in the complaint is not necessary in the proof to justify a conviction; it is sufficient to prove that such contravention was committed on or about the time mentioned. 41 V., c. 3, s. 215.

**1051.** The production of the license constitutes sufficient evidence of the payment of the duty thereon, unless the party prosecuting proves that the duty has not been paid, in which case the license, without such payment, is deemed to be invalid. 41 V., c. 3, s. 216.

**1052.** In an action or prosecution against a defendant accused of having carried on, without a license, the business of an auctioneer, the following are reputed *prima facie* evidence of the auction sale:

1. The fact of having placed publicly, to be bid upon, any article, merchandise, or property moveable or immoveable, before an assemblage of persons in order to induce them, or any number of them, to purchase the same;

2. The publishing, in any newspaper or hand-bill, of a notice of an auction sale, by defendant;

3. The exhibiting to view, in, on, or near his house or dependencies, of any sign, printer matter, painting, writing, indicating or of a nature to indicate, that he is desirous of acting as an auctioneer, or the fact that such has been exhibited with his knowledge or consent. 41 V., c. 3, s. 217.

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**1054.** Proof that a billiard table is kept in an inn, temperance hotel, railway buffet or restaurant is held to establish that such table is thus kept for gain. 41 V., c. 3, s. 219.

### 30.—JUDGMENTS.

**1055** When a prosecution, instituted under the authority of this section, has been brought before two justices of the peace, judgment may be pronounced by one of them in the absence of the other, provided that such judgment be reduced to writing and signed by both justices of the peace. 41 V., c. 3, s. 220.

**1056.** When a prosecution has been brought before two justices of the peace, and they fail to agree on the judgment to be rendered, either of such justices of the peace may sign a certificate to that effect, and transmit it to the collector of provincial revenue, who whereupon may institute a new action for the same contravention. 41 V., c. 3, s. 221.

**1057.** In default of payment of any fine imposed, or of any sum claimed under this section, the contravening person condemned to pay the same shall be imprisoned and detained in the common goal during a period of three months, unless another period of detention be prescribed. 41 V., c. 3, s. 222.

**1058.** The penalty for a repetition of the contravention, against any one who shall have incurred a subsequent condemnation for a contravention of the same nature and kind, under the authority of this section, except in cases otherwise herein specially provided for, is a fine of one hundred dollars and imprisonment for six months, in default of payment. 41 V., c. 3, s. 223.

**1059** In the cases mentioned in the two preceding articles, and in all other cases wherein a similar legal provision exists in this section, every judgment or conviction shall contain a condemnation of the defendant to such imprisonment. 41 V., c. 3, s. 224.

### 40.—COSTS.

**1060.** In all prosecutions or actions brought before the Circuit Court, the fees of the clerk of such court, of the advocate and of the bailiff, shall be the same as those which are now allowed in the tariff of fees for the class of actions of forty dollars and under, but above twenty-five dollars.

2. In all prosecutions or actions brought before the Superior Court, the fees of the prothonotary of such court, of the advocate

and of the bailiff, shall be those which are now allowed in the tariff of fees for the class of actions in the Circuit Court of sixty dollars and over, but not exceeding eighty dollars.

3. In all other prosecutions or actions the following fees shall be allowed :

<i>a. To the clerks ;</i>	
For original summons.....	\$0 25
“ each copy of do.....	0 10
“ original subpoena.....	0 10
“ each copy of do.....	0 10
“ original warrant.....	0 30
“ each copy of do.....	0 10
“ original bail-bound.....	0 30
“ each copy of do.....	0 10
“ warrant of seizure and sale.....	0 30
“ “ commitment.....	0 30
“ each witness sworn.....	0 10
“ drawing up every deposition.....	0 10
“ minute of proceedings in each case.....	0 50
“ conviction.....	0 30
“ copy of conviction.....	0 20
“ bill of costs.....	0 20
“ certificate of taxation.....	0 10
<i>b. To the bailiff, peace officer or constable :</i>	
For the service of any summons, warrant, subpoena or order, and return.....	0 25
“ each mile travelled to serve the same (no allowance for mileage in returning).....	0 30
“ every arrest, exclusive of mileage.....	1 00
“ seizure and sale under warrant, including publication, but exclusive of mileage.....	1 50
“ seizure only, not followed by sale.....	0 75
<i>c. To the advocate :</i>	
When no witnesses are examined.....	5 00
“ witnesses are examined.....	8 00
<i>d. To the witness :</i>	
One dollar per day, and ten cents for each mile travelled by the witness to attend to court, when he resides more than five miles from the place where the court is held.	
4. In any case, such further and other fees, as are not provided for in the above lists, shall be allowed the prothonotary clerk of the Circuit Court, clerk, bailiff, constable or advocate as shall be taxed in the discretion of the court of functionary before whom the prosecution or action is brought or heard ; and when so taxed, such additional fees shall be as lawful and valid as if they were especially enumerated in the above lists. 43-44 V. c. 11, s. 41 ; 49-50 V., c. 34, s. 1.	

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by a justice of the peace in the same manner.

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In all cases of criminal revision, the revisionist shall be allowed this section.

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**1062.** No costs shall be adjudged against the collector of provincial revenue, in any action or prosecution instituted under this section; but, on the recommendation of the court, or the collector of provincial revenue, the Provincial Treasurer may, in his discretion, pay to the person, in favor of whom judgment has been pronounced against the collector of provincial revenue, the costs or indemnity to which he may deem such person equitable entitled. 41 V., c. 3, s. 227; 46 V., c. 6, s. 1.

**1064.** In default of immediate payment of the fine and costs, the prosecutor may, upon the rendering of the judgment or conviction, or at any time during the delay, if any, granted to the defendant, make option whether the defendant shall be first imprisoned for the time mentioned in the judgment or conviction, or shall be first proceeded against by seizure.

In the latter case, the amount of such fine and costs is levied by a warrant of seizure and sale of the moveables and effects of the defendant; and, in default of moveables and effects, or, if they be insufficient, the defendant shall be imprisoned; but, in either case, he may be discharged from imprisonment by paying the fine in full and all costs incurred to the time of the conviction and subsequent costs.

cept in the case of full payment as aforesaid, no defendant, imprisoned in virtue of any provision of this section, shall be released on the grounds of any defect or form in the warrant of commitment, or without due notice given to the prosecutor; nor shall any partial payment affect or modify the terms of the judgment pronounced against him, in so far as imprisonment is concerned. 41 V., c. 3, s. 229; 43-44 V., c. 11, s. 42.

1065. Any one knowing or having reason to believe that a commitment has been issued against any person under this section, prevents the arrests of the defendant, or by any act of arrest, or in any other manner whatsoever, procures for the defendant the means of or facilitates his avoiding arrest, is liable to a fine of forty dollars. 41 V., c. 3, s. 230.

666. The execution of a judgment, rendered in the Superior Court or in the Circuit Court, may take place on the expiration of 10 days from the date of such judgment. 41 V., c. 3, s. 230.

67. In the case where coercive imprisonment is had recourse to in the said Superior or Circuit Court, it is granted by the judges of the Superior Court, or by the prothonotary of the said court, or by the clerk of the Circuit Court, on a sum-

mary petition, alleging that the defendant has not paid the total fine, or the amount claimed, and the costs of the prosecution.

It is not necessary that the defendant should be notified of the presentation of such petition. 41 V., c. 3, s. 232.

**1068.** Each term of imprisonment under this section, is reckoned from the date of incarceration. 41 V., c. 3, s. 233.

**1069.** If the conviction be for having sold, or allowed to be sold, intoxicating liquors on board any steamboat or vessel, without the requisite license, the fine and costs may be equally levied by seizure and sale of the tackle and furniture of the steamboat or vessel, on board which such liquors have been sold. 41 V., c. 3, s. 234.

**1070.** If the conviction be for having kept a billiard table without a license, or for any contravention of articles 1090, 1091 and 1093, the fine and cost may be levied by seizure and sale of any billiard table in possession of the defendant at the time of the rendering of the judgment, whether the defendant be or be not the proprietor thereof. 41 V., c. 3, s. 235.

**1071.** The court may, in its discretion, in case the fine and costs be not immediately paid, fix an ulterior day for payment, and order that the defendant be placed in custody unless he binds himself with sureties to the satisfaction of the said court, which is hereby authorized to take the security under the form of an obligation or otherwise, as it may deem fit, to appear on the day fixed; and, if on the day appointed, the fine and costs be not paid, the complainant may make his option, and the defendant shall be dealt with in accordance with article 1064. 41 V., c. 3, s. 236.

**1072.** When a married woman shall have been convicted, in an action instituted under the authority of this section, the complainant may exercise the option whether to proceed by seizure and sale either against the goods of the married woman or of her husband; and, moreover, in case the goods of one of them should be found insufficient, then against the goods of the other, provided they habitually live together. 41 V., c. 3, s. 237.

**1073.** On the condemnation of one member of a co-partnership, under the authority of this section, the right of the prosecutor to proceed by seizure and sale may, in case the goods and effects of the defendant be found insufficient, be exercised against the goods and effects of the co-partnership, found on the premises where the contravention has been committed. 41 V., c. 3, s. 238.

#### 6°—RECOURSE BY CERTIORARI.

**1074.** Amended by 53, V., c. 17, s. 1. Unless within eight days after the conviction, judgment or order in any action or prosecution, instituted under this section, the defendant deposits, in the hands of the clerk of the justices of the peace or of the court

which has all costs, a of such conviction, conviction, any other elements, the retard or a order.

2. The court dispose of the between the form or substance of this conviction of this peace, record made or signed such conviction such offence

cases, where the conviction not be quashed by the court or judge

3. There is no appeal to any court of law

4. The certificate of imprisonment of the offence of two hundred

of provincial belong to the

5. Any person doing anything done previously deposited the application for payment of the

dismissed. 41 V., c. 3, s. 7; 50 V., c. 1

The writ of habeas corpus fifteen days after the conviction upon shall be

**1075.** All collectors of provincial revenue with their financial Treasurer; and any



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which has rendered the judgment, the full amount of the fine and all costs, and a further sum of fifty dollars, to secure the payment of such costs as may be subsequently incurred, no action, prosecution, conviction, judgment or order shall be taken by *certiorari* to any other court; and, in default of complying with these requirements, the notice of application for *certiorari* shall not suspend, retard or affect the execution of such conviction, judgment or order.

2. The court or judge, to whom such application is made, shall dispose of the same upon the merits, notwithstanding any variance between the information and the conviction, or of any defect in form or substance therein, provided it appears by such conviction that the same was made for an offence against some provision of this section, within the jurisdiction of the justice of the peace, recorder, police magistrate, or district magistrate, who made or signed the same, and provided it further appears from such conviction that the appropriate penalty or punishment for such offence was intended to be thereby adjudged; and, in all cases, where it appears that the merits have been tried, and that the conviction is valid under this section, such conviction shall not be quashed; and, in case the original record is before the court or judge, it shall be remitted to the court below.

3. There is no appeal from such conviction, judgment or order, to any court of sessions of the peace or Queen's Bench.

4. The *certiorari* shall not stay the execution of the sentence of imprisonment against any persons convicted for the third time of the offence of selling liquor without a license, unless a deposit of two hundred dollars is, without delay, made with the collector of provincial revenue, after the conviction; and such deposit shall belong to the Crown if the conviction is not set aside.

5. Any person, applying for a writ of prohibition in reference to anything done or sought to be done under this section, shall previously deposit with the prothonotary of the court, before which the application is made, the sum of thirty dollars, to secure the payment of the costs of the adverse party, in case the petition be dismissed. 41 V., c. 3, s. 239; 43-44 V., c. 11, s. 43; 49-50 V., s. 3, s. 7; 50 V., c. 3, s. 17.

The writ of *certiorari* or prohibition shall be applied for within fifteen days after the date of judgment, and the proceedings thereupon shall be summary and proceed from day to day.

#### 70.—APPLICATION OF DUTIES AND FINES.

**1075.** All duties, levied under this section, shall be paid by the collector of provincial revenue and all other functionaries charged with their collection, under the same authority, to the Provincial Treasurer, and shall form part of the consolidated revenue fund; and any proportion thereof may be applied, from time to

time, by the Lieutenant-Governor in Council, to the payment, under the direction of the Provincial Treasurer, of all expenses incurred for the carrying out of this section, and the costs incurred in actions instituted for contraventions of the same. 41 V., c. 3, s. 240; 46 V., c. 6, s. 1.

**1076.** When the prosecution is instituted by the collector of provincial revenue and in his name, the fine recovered shall be applied in the following manner, viz:

1. If the full amount of fine and costs have been levied, one half of the fine belongs to the collector of provincial revenue, he being obliged to pay one half of such half to the informer, if there be one, and the balance is remitted to the Provincial Treasurer to form part of the consolidated revenue fund;

2. If the fine and costs be not paid in full, the amount levied is applied, in the first instance, to the payment of costs, and the balance is divided between the collector of provincial revenue, the informer, if there be one, and the Provincial Treasurer in the proportions mentioned in the preceding paragraph of this article. 41 V., c. 3, s. 241, §§ 1 and 2; 46 V., c. 6, s. 1.

**1077.** The preceding distribution does not apply to fines levied, under article 898, for contraventions of this section in the city of Montreal, where the fines shall be applied in the following manner, viz:

1. If the fine and costs be recovered in full, fifteen dollars thereof belong to the informer, a like amount to the collector of provincial revenue, and the balance to the Treasurer;

2. If the fine and costs be not paid in full, the amount levied shall be applied, in the first instance, to the payment of costs and the balance divided in the last-named proportion, namely, fifteen ninety-fifth portions of the amount to the collector of provincial revenue, fifteen ninety-fifths to the informer, and the remainder to the Treasurer. 41 V., c. 3, s. 241 § 3 to § 5; 46 V., c. 6, s. 1.

**1078.** The fine and costs, or the amount levied, are payable into the hands of the collector of provincial revenue for the district, who shall, without delay, apply, divide and apportion the amount recovered, in the manner prescribed by the foregoing articles. 41 V., c. 3, s. 242; 46 V., c. 6, s. 1.

**1079.** When the prosecution is instituted by a municipal corporation, or by an informant, the fine levied is applied in the following manner:

1. If the full amount of the fine and costs be levied, one half of the fine belongs to the municipality, or to the informant, with the obligation, in either case, to pay over one half of such half to the informer, if there be one, and the balance is remitted to the Provincial Treasurer to form part of the consolidated revenue fund;

2. If the total amount of the fine and costs be not levied, the amount recovered is applied, in the first instance, to the payment

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The provisions of the preceding article shall apply to the present article as well as to articles 1076 and 1077. 41 V., c. 3, s. 243; 43-44 V., c. 11, s. 44.

**1080.** No fine incurred under the authority of this section shall be remitted, except by and with the authorization of the Lieutenant-Governor in Council. 41 V., c. 3, s. 244.

**1081.** Every clerk of the peace, of justices of the peace, of the recorder, and of the district or police magistrate, and the prothonotary of the Superior Court, and the clerk of the Circuit Court, shall, during the months of April and October, of each year, under a penalty of one dollar for each day during which the same is wilfully neglected, (such penalty to be recovered in the same manner as is provided by this section for the recovery of penalties), transmit to the Provincial Treasurer a statement of all prosecutions instituted under this section, which have been brought before them and adjudicated upon, during the six months ending on the thirty-first day of March and the thirtieth day of September, respectively; and such statement shall mention the names of the judges or the justices of the peace before whom each case has been tried, the name of each defendant, the date of every judgment, and the amount of fine or other condemnation in each case. 41 V., c. 3, s. 245.

# 80.—ADDITIONAL PROVISIONS RESPECTING PROSECUTIONS.

**1082.** (Replaced by 52, V., c. 15, s. 13.) Unless otherwise provided, every prosecution against an auctioneer or pawnbroker, under this law, shall be instituted within six months and all others within two months after the contravention.

**1083.** No action shall be maintained against a collector of provincial revenue, by reason of his official acts, unless it shall have been instituted within six months from the date of the act which gave rise to it. 41 V., c. 3, s. 247; 46 V., c. 6, s. 1.

**1084.** Under a plea of the general issue, the collector of provincial revenue may prove all facts of a nature to establish a special defence, in the same manner as if he had pleaded the same.

On dismissal or discontinuance of the complaint or action, the defendant is entitled to a condemnation for costs in his favor against the adverse party. 41 V., c. 3, s. 248; 46 V., c. 6, s. 1.

**1085.** If the judgment be rendered in favor of such party, and if the court certify that the defendant had reasonable grounds to justify his proceedings, the plaintiff has no right to costs, and shall only recover nominal damages. 41 V., c. 3, s. 249.

§ 27.—*Additional Duties and Privileges of Collectors of Provincial Revenue.*

**1086.** There shall be published a classified list of all persons having obtained licenses under this section by the different collectors of provincial revenue, once a year or more frequently, at the period, and in the newspapers indicated by the Treasurer. 41 V., c. 3, s. 250; 46 V., c. 6, s. 1.

**1087.** Every collector of provincial revenue, and every other functionary receiving public moneys, is accountable for and shall pay and account for to the Provincial Treasurer, into whose hands he shall pay, and account for to the Provincial Treasurer, into whose hands he shall pay, at the periods and in the manner ordered by the latter, all sums of money which he shall have levied arising from the duties imposed by this section, as well as for all other sums of money, which the law obliges him to pay to the said Treasurer, and which belong to the provincial revenue and form part thereof. 41 V., c. 3, s. 251; 46 V., c. 6, s. 1.

**1088.** In rendering his accounts to the Provincial Treasurer, the collector of provincial revenue shall transmit, in addition to the information which he shall be ordered to give, a statement showing the sums received by him for duties on auction sales, and the number of licenses he has issued. 41 V., c. 3, s. 252; 46 V., c. 6, s. 1.

**1089.** With the consent and approval of the Provincial Treasurer, each collector of provincial revenue may appoint one or more deputies for the performance of his duties under this section or any other law; and such deputies, as well as the collector of provincial revenue, shall take and subscribe the oath required by article 748 in the manner therein prescribed. 41 V., c. 3, s. 253, 46 V., c. 6, s. 1.

**1089a.** (Added by 53 V., c. 18 s. 1.) Notwithstanding the provisions of articles 746, 878, 908, 945, 1026, 1076, 1077 and 1078, it is lawful for the Lieutenant-Governor, in Council, to replace, by a salary to be fixed by him for such time and in respect of such collectors of revenue as he sees fit the emoluments mentioned in the said articles.

**1090.** An extra sum of one hundred dollars, annuallly, may be granted by the Lieutenant-Governor in Council to any collector of provincial revenue, for travelling expenses, in addition to his ordinary salary. 41 V., c. 3, s. 254; 46 V., c. 6, s. 1.

§ 28.—*Miscellaneous.*

**1091.** All provisions of the Municipal Code of the Province of Quebec, whereby any municipalities are empowered to regulate the storage of gunpowder, or any other matter, shall apply only, in so far as such storage, or such other matter is not or shall, at

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any time hereafter be regulated by this section or by any regulations made in virtue thereof. 41 V., c. 3, s. 258.

**1092.** The Provincial Treasurer, whenever he shall deem it conducive to the better administration and carrying out of the revenue laws, may, from time to time, at the public expense, cause to be prepared, printed and distributed, in the English and French languages, or in either, and in such numbers and manner as he may see fit, pamphlets containing the present section twelfth and part first of this title, and such acts or portions of acts, regulations of the Lieutenant-Governor in Council, and instructions from the Treasury Department as he may deem desirable.

Such pamphlets shall be deemed to be printed for convenience only, and nothing contained therein shall prevail against the regularly promulgated versions of the law or the meaning or construction thereof. 41 V., c. 3, s. 260.

**1093.** The forms contained in the following schedule is part of this section, or other forms to the like effect, shall be sufficient for the purposes for which they are intending. 41 V., c. 3, s. 261 ; 43-44 V., c. 11, s. 46.

## SCHEDULE.

### FORM A.

FORM OF CERTIFICATE FOR OBTAINING A LICENSE TO KEEP AN INN, TAVERN OR RESTAURANT.

Province of Quebec. }  
District of

We, the undersigned municipal electors of the  
of \_\_\_\_\_, in the county of \_\_\_\_\_, do hereby certify  
that \_\_\_\_\_ of \_\_\_\_\_, in the county of \_\_\_\_\_  
in the district of \_\_\_\_\_, who is desirous of obtaining a  
license to keep \_\_\_\_\_ at \_\_\_\_\_ is personally  
known to each of us; that he is honest, sober and of good repute,  
and is a fit and proper person for keeping a house of public enter-  
tainment; that we have visited (or are acquainted with) the  
house and premises situate at \_\_\_\_\_ for which the license  
is required, and that he has, in and on the same, bedding, stab-  
ling and accommodation for travellers, as required by law.

We further certify that a house of public entertainment is re-  
quired at the place where the said house is situated.

Given under our hands, at \_\_\_\_\_, this \_\_\_\_\_ day  
of \_\_\_\_\_ in the year one thousand eight hundred and \_\_\_\_\_

{ Municipal Electors for  
the county of \_\_\_\_\_

—41 V., c. 3, s. 17, and form A., el 43-44 V., c. 11, s. 45.

## FORM B.

FORM OF AFFIDAVIT TO BE MADE BY A PERSON DESIROUS OF OBTAINING  
A LICENSE TO KEEP A HOUSE OF PUBLIC ENTERTAINMENT.

Province of Quebec, }  
District of

I, \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_,  
in the district of \_\_\_\_\_, who am desirous of obtaining a  
license to keep \_\_\_\_\_ situated at \_\_\_\_\_ being duly  
sworn, do make oath and say, that I am, in all respects, duly  
qualified according to law to keep a house or place of public en-  
tertainment.

(Signature.)

Sworn before me, at  
this \_\_\_\_\_ day of \_\_\_\_\_, one }  
thousand eight hundred and \_\_\_\_\_

The foregoing certificate having been this day submitted to  
the municipal council of (or corporation of)  
and the said council (or corporation) being duly assembled and  
having deliberated thereon, confirms the same in favor of  
therein mentioned.

Signed at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand  
eight hundred and \_\_\_\_\_

P. Q., Mayor.  
R. S., Secretarg.

—(41 V., c. 3, s. 8, and form. B.)

## FORM C.

WHEN THE CERTIFICATE IS CONFIRMED UNDER THE PROVISIONS  
OF ARTICLE 843.

The foregoing certificate having been this day submitted to us,  
conformably to section twelfth of chapter fifth of title fourth of  
the Revised Statutes of the Province of Quebec, we do hereby  
confirm the same.

(Signature.)

—(41 V., c. 3, s. 11, and form. C.)

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FORM G.

FORM OF SECURITY BOND.

Know all men, by these presents, that we, T. U., of V. W., of , and X. Y., of , are held and firmly bound unto Her Majesty, Queen Victoria, Her Heirs and Successors, in the penal sum of six hundred dollars of good and lawful money of Canada, that is to say the said T. U., in the sum of two hundred dollars, the said V. W. in the sum of two hundred dollars, and the said X. Y. in the sum of two hundred dollars, of like good and lawful money, for payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators and assigns firmly by these presents.

Whereas the above bounden T. U. is about to obtain a license to keep , the condition of this obligation is such that, if, during all the time such license remains in force, the said T. U. pay all fines and penalties which he may be condemned to pay for any offence against the provisions of section twelfth of chapter fifth of title fourth of the Revised Statutes of the Province of Quebec, relative to houses of public entertainment and restaurants, and do perform and observe all the requirements thereof, and conform to all rules and regulations that are or may be established by competent authority in such behalf, then this obligation shall be null and void, otherwise to remain in full force and effect.

In witness whereof, we have signed these presents with our hands, and sealed them with our seals, at this day of , 18 ,

Signed, sealed and delivered, }  
in presence of us.

T. U. (L. S.)  
V. W. (L. S.)  
X. Y. (L. S.)

—(41 V., c. 3, form. G.)

FORM I.

FORM OF DECLARATION.

Province of Quebec, }  
District of

Before (name and designate the justice.)

(Name of the collector of provincial revenue) of the city (town, township or parish) of (name of the city, town, township or

*parish*) in the district of (*name of the district*), collector of provincial revenue, on behalf of our Sovereign Lady the Queen, prosecutes, (*name of defendant*), of the city, (town, township or parish) in the district of

For what whereas the (*name of defendant*), did at the city (town, township or parish) of \_\_\_\_\_ in the district aforesaid \_\_\_\_\_, on \_\_\_\_\_ and at sundry times before and since (*here state succinctly the offence*), contrary to the statute in such case made and provided: Whereby and by the force of the said statute the said \_\_\_\_\_ hath become liable to pay the sum of \_\_\_\_\_ dollars.

Wherefore the said collector of provincial revenue prays judgment in the premises and that the said \_\_\_\_\_ may be condemned to pay the sum of \_\_\_\_\_ dollars for the said offence with costs.

—(41 V., c. 3, form. 1.)

### FORM J.

#### FORM OF SUMMONS.

Province of Quebec, }  
District of \_\_\_\_\_

To (*name of defendant*), of the city, (town, township or parish), of (*name of the city, town, township, or parish* in the district of (*name of the district*).

You are hereby commanded to be and appear before us the undersigned justices (or justice of the peace) for the said district (or, *as the case may be*), at (*name of place*) on the \_\_\_\_\_ day of \_\_\_\_\_, at the hour of \_\_\_\_\_ noon, to answer then and there to the complaint made against you by the collector of provincial revenue (*or, as the case may be*), who prosecutes you in Her Majesty's name and behalf, for the causes mentioned in the declaration hereunto annexed,—otherwise judgment will be given against you by default

Given under my (*or our, as the case may be*, hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord, one thousand eight hundred and \_\_\_\_\_, at \_\_\_\_\_, in the district of \_\_\_\_\_

J. P.

I, the undersigned,  
upon my oath  
of \_\_\_\_\_  
and the declaration  
dant, at the

summons and  
dant in the  
of \_\_\_\_\_

NOTE.—  
duly sworn  
certify, under

Sworn before me

—(41 V., c. 3, form. 2.)

Province of Quebec,  
District of \_\_\_\_\_

Be it remembered that  
year one thousand eight  
place where  
is convicted  
tices of the peace  
of defendant  
they were convicted  
adjudge the  
as a fine, to  
and also to pay  
for \_\_\_\_\_

Given at \_\_\_\_\_  
year first above

—(41 V., c. 3, form. 3.)

CERTIFICATE OF SERVICE OF SUMMONS.

I, the undersigned, do hereby certify  
upon my oath of office, that on the \_\_\_\_\_ day  
of \_\_\_\_\_, I did serve the within summons,  
and the declaration thereto annexed, on the within named defen-  
dant, at the hour of \_\_\_\_\_ of the clock in the  
noon, by leaving a true and certified copy of the said  
summons and of the declaration at the domicile of the said defen-  
dant in the \_\_\_\_\_ speaking to  
of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ 18

NOTE. — *If the service be not made by a bailiff, insert "being  
duly sworn, do make oath and certify," instead of "do hereby  
certify, under my oath of office, and after the signature, add :*

Sworn before me, at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

18

—(41 V., c. 3, form. J.)

FORME K.

FORM OF CONVICTION.

Province of Quebec, }  
District of \_\_\_\_\_

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in the  
year one thousand eight hundred and \_\_\_\_\_, at (name of  
place where convicted,) in the said district, (name of defendant,)  
is convicted before the undersigned (one) of Her Majesty's jus-  
tices of the peace for the said district, for that he, the said (name  
of defendant,) did (state the offence succinctly of which he or  
they were convicted) and (I or we) (name of justice or justices,)  
adjudge the said (name of defendant) for his said offence, to pay,  
as a fine, to \_\_\_\_\_ the sum of \_\_\_\_\_, and  
and also to pay to the said \_\_\_\_\_ the sum of \_\_\_\_\_  
for his costs in this behalf.

Given at \_\_\_\_\_, under \_\_\_\_\_ hand and seal, the day and  
year first above mentioned.

(Signature,) J. P. (Seal or Seals.)  
or (Signatures.)

—(41 V., c. 3, form. K.)

## FORM L.

## FORM OF WARRANT OF DISTRESS

Province of Quebec, }  
District of

(Name of justice) Esquire, one of Her Majesty's justices of the peace in and for the said district.

To any Bailiff or constable in and for the said district :

Whereas (name of defendant) of the parish of (name of parish or township,) in the said district, hath been convicted before (one) of Her Majesty's justices of the peace for the said district, of having (state the offence) whereby the said (name of defendant) has forfeited, and has by the said justice been adjudged to pay the sum of \_\_\_\_\_ dollars \_\_\_\_\_ cents, and further the sum of (amount of the costs allowed) by me the said justice allowed and adjudged to be paid by the said (defendant) to (name of officer) collector of provincial revenue. (or as the case may be) for costs by him laid out about the conviction aforesaid ; These, are therefore to command and require you, and each and every of you to distrain the goods and chattels of the said (name of defendant,) wheresoever they may be found within the said district ; and on the said goods and chattels so distrained to levy the said penalty and costs, making together the sum of \_\_\_\_\_ dollars \_\_\_\_\_ cents ; And, if within the space of four days next after such distress by you made, the said last mentioned sum of \_\_\_\_\_ dollars \_\_\_\_\_ cents, together with the reasonable charges of taking and keeping the said distress are not paid, that then you do sell the said goods and chattels so by you distrained as aforesaid, and out of the money arising from such sale that you do pay the said sum of \_\_\_\_\_ dollars \_\_\_\_\_ cents, unto the said collector of provincial revenue (or as the case may be,) returning to the said \_\_\_\_\_ the overplus, reasonable charges of distraining, keeping and selling the said distress being first deducted ; and you are to certify to \_\_\_\_\_ with the return of this warrant what you shall have done in the execution thereof. Herein fail not.

Given under \_\_\_\_\_ hand and seal, at \_\_\_\_\_, in the said district  
this \_\_\_\_\_ day of \_\_\_\_\_, in the year one thousand  
eight hundred and \_\_\_\_\_

—(41 V., c. 3, form. L.)

(Signature,)

J. P. (Seal.)

FORM M.

WARRANT OF COMMITMENT IN DEFAULT OF DISTRESS.

Province of Quebec, }  
District of

the district of

Esquire.

of the  
of  
for

To all and every the Bailiffs, Constables or Peace officers in and for the said district of ; and to the Keeper of the Common Gaol in the said district of

Whereas

of , of the  
has been convicted on the , in the district of  
in the year of Our Lord one thousand eight hundred and day of  
, before , Esquire,

for the district of ,  
of having (*recite offence*), contrary to the provisions of the statute in such case made and provided, and, for such offence, has been adjudged to pay to collector  
of provincial revenue for the division  
of the district of

, (the prosecutor), the sum of  
as a fine, to be applied according  
to law, and also the further sum of

for his costs in that behalf; and,  
in default of immediate payment of such fine and costs, that the same be levied by seizure and sale of the moveables and effects of the said

; and in default,  
of such moveables and effects, or in case they be insufficient, that the said  
mon gaol, at the  
be imprisoned, in the com-  
of

in the district aforesaid, for a period of three months, unless the said fine and costs and charges of seizure and sale, of arrest, commitment and conveying the said

to the said common gaol, be sooner  
aid;

And whereas, afterwards, on the

day of , in the year aforesaid, I issued  
warrant to all or any of the bailiffs, constables or other peace officers of the district of , commanding  
them or any of them to levy the said fine and costs by seizure and sale of the moveables and effects of the said

And whereas it appears to me, by the return of the said war-

(Seal.)

rant by the constable, who had the execution of the same, that the said constable has made diligent search for the moveables and effects of the said

; but that no sufficient moveables and effects whereon to levy the said fine and costs above mentioned, could be found (or, that the said moveables and effects are insufficient to pay the whole of the said fine and costs;)

These are therefore to command you, the said bailiffs, constables or peace officers, or any one of you, to take the said and safely convey to the common gaol at the of in the district of h , and there deliver to the keeper thereof, together with this warrant.

And I do hereby command you, the said keeper of the said common gaol, to receive the said

, into your custody, in the said common gaol, and there to imprison h , for the space of three months from the date of h , for the arrival as a prisoner thereat, unless the said fine and costs and all costs of the warrant of seizure and sale, and of the arrest, commitment and conveying the said

to the said common gaol, amounting to the further sum of dollars and

cents be sooner paid unto you the said keeper of the said common gaol.

And for so doing, this shall be your sufficient warrant.

Given under my hand and seal, at the , in the said district, this day of , in the year of Our Lord one thousand eight hundred

(Signature)

(Title of Magistrate.)

—(43-44 V., c. 11, s. 46 and form M.)

# FORM N.

## WARRANT OF COMMITMENT IN THE FIRST INSTANCE.

Province of Quebec, }  
District of

To all and every the Bailiffs, Constables or Peace Officers



the same, that and for the said district of  
the moveables the Keeper of the Common Gaol in the said district of , and to

moveables and  
ve mentioned,  
effects are in-  
S ;)  
Whereas (name of defendant,) of the , of  
has been convicted on the

eight hundred and in the year of Our Lord one thousand  
of magistrate who rendered judgment) Esquire, day of  
for the district of , before (name and title  
contrary to the provisions of the statute in such case made and  
provided, and, for such offence hath been adjudged to pay forth-  
with to , collector of provincial  
revenue, for the division of the district of  
(the prosecutor), the sum of , as a fine to  
be applied according to law, and also the further sum of

ly, in the said dollars and cents for his costs  
, for the in that behalf; and, in default of such payment being made as  
arrival foresaid, to be imprisoned in the common gaol at the  
s and all costs of in the said district, for a period of three  
, commitment months, unless the said fine and costs be sooner paid ;

ounting to the And, whereas the said  
dollars and he said fine and costs ;  
paid unto you has failed to pay

rrant. These are therefore to command you, the said bailiffs, con-  
tables or peace officers, or any one of you, to take the said  
and h safely convey to the  
common gaol at the of in the  
district of , and there deliver h  
to the keeper thereof, together with this warrant.

, in the And I do hereby command you, the said keeper of the said  
common gaol, to receive the said  
Magistrate.) into your custody, in the said common gaol and there to im-  
prison h for the space of three  
months from the day of h arrival as a prisoner  
hereat, unless the said fine and costs and all costs of the arrest,  
commitment and conveying the said  
to the said common gaol, amounting to the  
urther sum of dollars and  
ents be sooner paid unto you the said keeper of the said com-  
mon gaol.

ANCE. And for so doing, this shall be your sufficient warrant.

ce Officers Given under my hand and seal, at , the  
, in this said district, this

day of  
thousand eight hundred

in the year of Our Lord one

(Signature.)

(Title of Magistrate)

—43-44 V., c. 11, s. 46 and form. N.

### FORM O.

#### CONVICTION ORDERING IMPRISONMENT.

Province of Quebec, }  
District of

Be it remembered, that, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of Our Lord one thousand eight hundred \_\_\_\_\_, at the \_\_\_\_\_ of \_\_\_\_\_ in the district of \_\_\_\_\_ (name, occupation and residence of defendant), of the \_\_\_\_\_ of \_\_\_\_\_ in the district aforesaid, is convicted before the undersigned (title of magistrate) for the \_\_\_\_\_, for that he the said \_\_\_\_\_ (recite offence) contrary to the provisions of the statute, in such case made and provided;

And I, the said

said

for \_\_\_\_\_ h \_\_\_\_\_ of the \_\_\_\_\_

said offence, to forfeit and pay to \_\_\_\_\_ of \_\_\_\_\_ aforesaid, collector of provincial revenue for the \_\_\_\_\_ division of the district of \_\_\_\_\_

the sum of \_\_\_\_\_

fine to be applied according to law, and also to pay to the \_\_\_\_\_ dollars as \_\_\_\_\_

said

the sum of \_\_\_\_\_

dollars and \_\_\_\_\_ cents for his costs in this behalf

And, whereas the said prosecutor hath made option that the said (name of defendant) be committed to the common gaol \_\_\_\_\_ of \_\_\_\_\_ in the said district for a period of three months, unless the said fine and costs be forthwith paid:

I do therefore order and adjudge that, in default of immediate payment of the said several sums, the said \_\_\_\_\_

be committed

Our Lord one to the common gaol at the said  
 of Magistrate) months, unless the said several sums of money, and costs and  
 charges of arrest, of commitment, and of the conveying the  
 said to the said common gaol, shall be sooner paid.

Given under my hand and seal, the day and year first above  
 mentioned, at the of  
 in the district of aforesaid.

(Signature.)

(Title of Magistrate.)

—(43-44 V., c. 11, s. 46 and form. O.)

FORM P.

WARRANT OF SEIZURE AND SALE.

Province of Quebec, }  
 District of

istrate) for the  
 that he the said

ase made and the district of

Esquire,

of the  
 of  
 of

To all and every the Bailiffs, Constables or Peace Officers in  
 and for the district of

Whereas (name of defendant) of the  
 in the district of of  
 the day of hath been convicted  
 Our Lord one thousand eight hundred and , in the year

dollars as before  
 to pay to the district of Esquire,  
 dollars and contrary to the provisions of the statute in such case made  
 in this behalf and provided; and, for such offence hath been adjudged to pay  
 the , collector of provincial revenue  
 the prosecutor, the sum of division of the district of  
 applied according to law, and also the further sum of as a fine, to be

unless the said at behalf; and, in default of immediate payment of such fine  
 cents, for his costs in  
 and costs, that the same be levied by a warrant of seizure and  
 of the moveables and effects of the said  
 of immediate d, in default of such moveables and effects, or in case of their  
 be committed ing insufficient, that the said  
 be

imprisoned in the common gaol at the \_\_\_\_\_ of  
 \_\_\_\_\_, in the district of \_\_\_\_\_ for a period of  
 three months, unless the said fine and costs, and costs and  
 charges of such seizure and sale, and of arrest, commitment and  
 conveyance of the said \_\_\_\_\_  
 to the said common gaol, be sooner paid ;

And whereas the said \_\_\_\_\_  
 being required to pay the said fine and costs, doth now fail to  
 pay the same :

These are therefore to command and require you, and each  
 and every of you, to seize the moveables and effects of the said \_\_\_\_\_  
 \_\_\_\_\_, wheresoever they may be found  
 within the said district, and, on the same, levy the said fine and  
 costs, making together the sum of \_\_\_\_\_  
 dollars and \_\_\_\_\_ cents, currency.

And if, within the space of four days next after such seizure so  
 made by you, the said last mentioned sum of \_\_\_\_\_ dollars  
 and \_\_\_\_\_ cents, together with the reasonable charges  
 of taking and keeping the said moveables and effects are not  
 paid, that then you do sell the same ; and out of the money  
 arising from such sale, that you do pay the said sum of \_\_\_\_\_  
 dollars and \_\_\_\_\_ cents unto

the said collector of provincial revenue, returning to the said \_\_\_\_\_  
 the surplus, if any ; the reasonable charges  
 of taking, keeping and selling the said moveables and effects  
 being first deducted therefrom.

And, if such moveables and effects belonging to the said \_\_\_\_\_  
 be found, or, in case the same should be insufficient, that you  
 certify the same unto me, to the end that such further proceed-  
 ings may be had thereon as to law and justice doth appertain ;

And you are to certify unto me with the return of this warrant  
 what you shall have done in the execution thereof.

Herein fail not.

Given under my hand and seal, at the \_\_\_\_\_  
 \_\_\_\_\_ ; the district of \_\_\_\_\_  
 this \_\_\_\_\_ day of \_\_\_\_\_  
 in the year of Our Lord one thousand eight hundred and \_\_\_\_\_

(Signature.)

(Title of Magistrate.)

Province of  
 District of

Be it rem

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Given under r

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in the district of

(43-44 V., c. 11

FORM Q.

CONVICTION ORDERING SEIZURE.

Province of Quebec, }  
District of

Be it remembered, that on the \_\_\_\_\_ day  
\_\_\_\_\_ thousand eight hundred \_\_\_\_\_, in the year of Our Lord one  
\_\_\_\_\_ at the \_\_\_\_\_ of \_\_\_\_\_, in the district

\_\_\_\_\_ (name, occupation and residence of  
\_\_\_\_\_ of \_\_\_\_\_, in  
\_\_\_\_\_ the district aforesaid, is convicted before me the undersigned (title  
of magistrate) for the district of \_\_\_\_\_, in  
for that \_\_\_\_\_ he the said (recite offence,) contrary to the  
provisions of the statute in such case made and provided.

And I, the said \_\_\_\_\_ do adjudge the said  
\_\_\_\_\_ for \_\_\_\_\_ h \_\_\_\_\_ said offence, to  
forfeit and pay to \_\_\_\_\_ of the \_\_\_\_\_, in the district

aforesaid, collector of provincial revenue for the \_\_\_\_\_, the prosecutor,  
division of the district of \_\_\_\_\_ dollars, as a fine,  
the sum of \_\_\_\_\_ to be applied according to law, and also to pay to the said  
\_\_\_\_\_ the sum of \_\_\_\_\_ dollars and

cents for his costs in this behalf.  
And whereas the said prosecutor hath made option that the  
said (name of defendant) be first proceeded against by seizure,  
in default of immediate payment of such fine and costs, I, the  
said (name of magistrate,) do hereby order and adjudge that in  
default of immediate payment of the said fine and costs, the same  
be levied by a warrant of seizure and sale of the moveables and  
effects of the said \_\_\_\_\_;

And, in default of such moveables and effects, or, in case they  
be insufficient, I do order that the said \_\_\_\_\_ in the district  
be imprisoned for a period of three months in the common gaol  
at the \_\_\_\_\_ of \_\_\_\_\_, in the district  
aforesaid, unless the said fine and costs, charges of seizure and  
sale, commitment, and conveying the said \_\_\_\_\_ to the said common gaol, shall be sooner paid.

Given under my hand and seal, at \_\_\_\_\_, the day and  
year first above mentioned, at the \_\_\_\_\_ of \_\_\_\_\_  
in the district of \_\_\_\_\_ aforesaid.

(Signature.)

(Title of Magistrate.)

(43-44 V., c. 11, s. 46 and form Q.)

# MASTERS AND SERVANTS.

(Revised Statutes of Quebec.)

## 10.—DUTIES OF MASTERS AND SERVANTS.

**5614.** This section applies to all parts of the Province, except the cities of Quebec and Montreal, and to all other incorporated cities, towns and villages which have passed or may hereafter pass by-laws regulating the relations of master and servant. 44-45 V., c. 15, s. 12. *See M. C. 624.*

**5615.** Every domestic, servant, journeyman or laborer, engaged by the week, month or year, and not by the piece or job, or for a fixed period, who intends to quit the service on which he is engaged at the expiration of his engagement, shall give at least one week's notice of such intention, if his engagement be by the week, two weeks' notice, if it be by the month, and one month's notice, if it be by the year; and if any such person quit the service without giving such notice, he shall be considered as having deserted from the said service and be punished accordingly. 44-45 V., c. 15, s. 5.

**5616.** Every master, mistress or employer shall give a like notice to any servant, journeyman or laborer, engaged by the week, month or year, whose services are no longer required; but any domestic, servant, journeyman or laborer, so engaged, may be discharged at or before the expiration of his agreement, without notice, upon the full payment of the wages to which he would have been entitled had the term of service expired and had the required notice been given. 44-45 V., c. 15, s. 5.

## 20.—PENALTIES.

**5617.** Every apprentice, servant, journeyman or laborer, bound by act of indenture, or written contract or agreement, or verbally before one or more witnesses, for one month or for any longer or shorter period.

Who refuses or neglects to enter the service of his master, at the time agreed upon, or

Who is guilty of misbehavior, refractory conduct or idleness, or of deserting from his service or duties, or

Who absents himself by day or night, without leave, from the said service, or from the house or residence of his employer,

Who refuses or neglects to perform his just duties, or to obey the lawful commands which may be given him by master or mistress, or

Who is or effects.

Who is of his master

Shall be 45 V., c. 1

**5618.** Iged by the job, who de engaged, b such natur article, 44-

**5619.** I ding article work or ser making of mercial tim may be pros of the distric or wherein territory wh may happen 15, s. 3.

**5620.** Apprentice o verbally befo master or mis

Instigating to abandon su Keeping su of the fact, Shall, for s icle 5617. 44-

**5621.** Eve servant, witho incur the pena 3, s. 6.

**5622.** Eve any just cause apprentice, domes aged as afore some food, or fo onviction, for twenty dollars.



Who is guilty of dissipating his master's or mistress' property or effects, or

Who is guilty of any unlawful act that may affect the interest of his master or mistress.

Shall be liable to a penalty not exceeding twenty dollars. 44-45 V., c. 15, s. 1.

**5618.** Every domestic, servant, journeyman or laborer, engaged by the month, or longer space of the time, or by the piece or job, who deserts or abandons the service or job for which he was engaged, before the time agreed upon, shall, for each offense of such nature, be liable to the penalty provided in the preceding article, 44-45 V., c. 15, s. 2.

**5619.** In every case of contravention against the two preceding articles, on the part of any servant or laborer engaged to work or serve in the woods and forests of this Province, for the making of saw-logs or the manufacture of square or other commercial timber, or firewood of any kind, the contravening party may be prosecuted and convicted before any justice of the peace of the district wherein he shall have contracted his engagement, or wherein he shall be apprehended, notwithstanding that the territory where the contravention shall have been committed may happen to be beyond the limits of such district. 44-45 V., c. 15, s. 3.

**5620.** Any person, knowingly harboring or concealing any apprentice or servant, engaged by written act or agreement or verbally before witnesses, who has abandoned the service of his master or mistress, or

Instigating or engaging or inducing any apprentice or servant to abandon such service, or

Keeping such servant in his or her service, after being informed of the fact,

Shall, for such offence, be liable to the penalty provided in article 5617. 44-45 V., c. 15, s. 4.

**5621.** Every master or mistress, who discharges his or her servant, without paying his wages as stated in article 5616, shall incur the penalty provided in the said article 5617. 44-45 V., c. 15, s. 6.

**5622.** Every master, mistress or employer, against whom any just cause of complaint exists on the part of his or her apprentice, domestic, servant, journeyman or laborer, bound or engaged as aforesaid, for any misusage, defect of sufficient wholesome food, or for cruelty or ill-treatment of any kind, shall, upon conviction, for each offence be liable to a penalty not exceeding twenty dollars. 44-45 V., c. 15, s. 7.

## 3.—SUITS FOR CONTRAVENTIONS.

**5623.** Any complaint, founded upon a contravention of any of the provisions of this section, may be heard and determined before any one justice of the peace, resident in the district where such contravention occurred, who may, by warrant or summons, require the attendance of offender before him, and upon the offender being brought up under warrant, or if summoned, upon proof of the service of such summons, may, either in the absence or presence of the offender, determine such complaint in a summary manner, on the oath of any one or more credible witnesses, to be sworn before him, and may, if the offender be convicted, condemn such offender to the penalty imposed for the offence, and, in default of payment of the said penalty, with costs of suit, with or without delay, to be imprisoned in the common gaol of the district for a period not exceeding two calendar months, unless the said penalty and costs of suit, together with the costs of apprehension and conveyance of the delinquent to the gaol, be sooner paid.

On a suit by a servant for wages the defendant may plead the fact of such desertion, misconduct or disobedience hereinbefore mentioned, and on proof thereof and of the damages incurred in consequence by the defendant, it may be declared that the plaintiff has lost all recourse for his wages in whole or in part, in the discretion of the court, according to the circumstances. 44-45 V., c. 15, s. 8.

**5624.** Upon complaint by any master, mistress or employer against his or her apprentice, servant or journeyman, or by any apprentice, servant or journeyman against his master, mistress or employer, of continued misconduct or misuse, and of repeated violations of the ordinary and established duties of the parties towards each other, or of incapacity to perform the services for which he is hired, any two justices of the peace, resident in the district where the master or mistress lives, may, at a special session, upon due proof of the facts, annul the contract or agreement, whether written or verbal, by which such master; mistress or employer, and such apprentice, servant or journeyman, were bound to each other. 44-45 V., c. 15, s. 9.

**5625.** All penalties imposed by this section, when paid, shall be handed over to the sheriff of the district within which the offence was committed, to form part of the building and jury fund. 44-45 V., c. 15, s. 10.

**5626.** The prosecution for any offence against the provisions of this section shall be commenced within three months after the offence was committed, and not hereafter. 44-45 V., c. 15, s. 11.

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# QUEBEC ELECTION ACT.

(Revised Statutes of Quebec.)

## SECTION I.

### PRELIMINARY PROVISIONS.

**166.** This chapter may be referred to and cited as "The Quebec Election Act."

It applies to every election of a member of the Legislative Assembly, whether the same be held at the time of a general election, or to fill a vacancy. 38 V., c. 7, s. 1.

**167.** (Amended by 52 V., c. 4, s. 1, and by 52 V., c. 6, s. 1.) In interpreting this act, unless it be otherwise provided, or unless there be in the context something which indicates a different sense or requires another interpretation.

1. The word "municipality" means every municipality of a parish or part of a parish, of a township or part of a township, of united townships, of a village, of a town, existing under the operation of the Municipal Code, and every town or city municipality, incorporated by charter or special act;

2. The word "secretary-treasurer" includes the clerk of every town or city municipality;

3. The word "owner" signifies any one who possesses real estate, or whose wife possesses real estate, whether as owner or usufructuary;

Whenever one person has the mere ownership of real estate, and another has the enjoyment and usufruct thereof to his own use and benefit, the person who has the mere ownership of such real estate shall not be entitled to vote as owner thereof, and the usufructuary shall in such case alone have the right to vote, by reason of such real estate;

4. The word "occupant" signifies the person who occupies immoveable property, otherwise than as owner, tenant or usufructuary, either in his own right or in the right of his wife, and who derives the revenue therefrom;

5. The word "tenant" means as well the person who pays rent in money, as the person who is obliged to give to the owner certain part of the revenues and profits of the real estate which he occupies; and such tenant must be *tenant feu et lieu*, save in the case of the lessee of a shop, work-shop or office;

6. The word "registrar" means the registrar of the registration division, which comprises within its limits the electoral district in which the election is held. It also means the registrar of the registration division, comprised within the limits of such electoral

district, or the limits whereof are the same as those of the electoral district ;

7. The term "voting subdivision" means, for voting purposes, every municipality whereof the number of electors entered on the list in force does not exceed two hundred ;

8. The words "to vote" mean to vote at the election of a member of the Legislative Assembly of this Province ;

9. The expression "electoral district" means any county or other place or portion of this Province, entitled to return a member to the Legislative Assembly ;

10. The term "election officer" means the returning officer the election clerk, and all deputy returning officers and poll clerks, appointed for an election ;

11. The term "personal expenses" employed in relation to the expenditure of a candidate, respecting any election in which he is candidate, comprises all the reasonable travelling expenses of such candidate, and his reasonable expenses at hotels and other places to which he may repair, for the purpose of and in regard to such election. 38 V., c. 7, s. 2 ; 39 V., c. 13, ss. 1 and 8.

"12. The word "father" includes "grandfather" and "step-father," and the word "mother" includes "step-mother" ;

"13. The words "farmer's son" mean any person who, not being otherwise qualified to vote, is the son of an owner, tenant or occupant of a farm, and include "grandson," "step-son" and "son-in-law" ;

"14. The words "son of an owner of real property" mean any person who, not being otherwise qualified to vote, is the son of an owner, tenant or occupant of immoveable property, and include "grandson," "step-son" and "son-in-law" ;

"15. The word "farm" means land actually occupied or worked, not less than twenty acres in extent ;

"16. The word "student" means the son who, being within those of paragraph 9 of article 173, is absent from his father's or mother's house, with their consent, with a view of studying some profession."

168. Any form indicated by a capital letter, in the various provisions of this act, refers to the corresponding form contained in the schedule annexed to this act. 38 V., c. 7, s. 3.

169. Any of the forms contained in the said schedule is sufficient in the case for which it is intended.

Any other form, having the same meaning, may be employed with equal effect. 38 V., c. 7, s. 3.

170. If the time fixed by this act for the accomplishment of any proceeding or formality, prescribed by the provisions thereof, expires or falls upon a Sunday or legal holiday, the time so fixed shall be continued to the next day not being a Sunday or holiday. 38 V., c. 7, s. 5.

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affirmation made, under the terms of this act, is empowered, and shall be bound whenever the same is required of him, to administer such oath or affirmation and to give a certificate thereof, without fee. 38 V., c. 7, s. 6.

**171a.** (Added by 52 V., c. 5, s. 1.) all the powers and duties, which the clerk of the crown in chancery is called upon to exercise and fulfil in virtue of this chapter may with the like effect be exercised and fulfilled by a deputy who is appointed by the Lieutenant-Governor in council to act in place of the said clerk of the crown in chancery in cases in which the latter is prevented from acting owing to illness, absence or other cause.

## SECTION II.

### ELECTORS.

#### § 1.—Qualification of an Elector.

**172.** (Replaced by 52 V., c. 4, s. 2.) No person shall be entitled to vote at the election of a member of the Legislative Assembly, unless, at the time of voting, he is entered upon the list of electors in force.

**173.** (Replaced by 52 V., c. 4, s. 3, and amended by 53 V., c. 6, s. 2.) "The following persons, and no others, being males, of the full age of twenty-one years, subjects of Her Majesty by birth or naturalization, and not otherwise legally disqualified, shall be entered upon the list of electors: "

1st. Owners or occupants, in good faith, of real property, estimated, according to the valuation roll in force, at a sum of at least three hundred dollars, in real value in any city municipality entitled to return one or more members to the Legislative Assembly, or two hundred dollars in real value or twenty dollars in any other municipality;

2nd. Tenants, in good faith, paying an annual rent, for real property, of at least thirty dollars in any city municipality entitled to return one or more members to the Legislative Assembly, or at least twenty dollars in any other municipality; provided such real property be estimated, according to such valuation roll, in real value at, at least, three hundred dollars in any city municipality entitled to return one or more members to the Legislative Assembly, or two hundred dollars in any other municipality;

3rd. Teachers teaching in an institution under the control of school commissioners or trustees;

4th. Retired farmers or proprietors, commonly known as *rentiers* (annuitants) who, in virtue of a deed of donation, sale or otherwise, receive a rent in money or effects of a value of at least one hundred dollars, including lodging and other things appreciable in money;

5th. Farmers' sons, who have been working for at least one year on their fathers' farm, if such farm is of sufficient value, if divided equally between them as co-proprietors, to qualify them as voters under this act; or who have been working on their mother's farm for the same time.

If there are more sons than one, they all be entered, in so far as the value of the property permits thereof, the eldest being entered first;

6th. Sons of owners of real property residing with their father or mother; such sons and such property being, and the entry being made in accordance with the above conditions.

7th. Fisherman residing in the electoral district and owners or occupants of real property and boats, nets, fishing gear and tackle, within any such electoral district or portion of an electoral district, or of a share or shares in a registered ship, which together are of the actual value of at least one hundred and fifty dollars.

8th. Farmers' sons exercise the above rights, even if the father or mother be tenants or occupants only of the farm;

They exercise them in the same manner as if they were the sons of owners of real property, with this difference, that it is the annual value of the farm which is the basis of the electoral franchise, as in the case, *mutatis mutandis*, of the 1st and 2nd paragraphs of this article.

9th. Temporary absence from the farm or establishment of his father or mother, during six months of the year in all, or absence as a "student" shall not deprive the son of the exercise of the electoral franchise above conferred."

(Additional disposition enacted by 53 V., c. 7, s. 1.) Until the next general valuation roll is prepared in any municipality (city, town, village, parish, township, &c.) any person to whom the electoral franchise is given by paragraphs 3, 4, 5, 6 and 7 of article 173 of the Revised Statutes of the Province of Quebec, as replaced by section 3 of the Act 52 Vict., chap. 4, may, by a simple application to the council of his municipality, and upon proof of his qualification, have his name entered upon the list of electors of his municipality, and any elector of the said municipality may make such application for the inscription of one or more persons so qualified.

Such inscription shall be made by the council notwithstanding the fact that such persons are not entered on the valuation roll in force in the municipality, and within the delay and in the same manner as for the ordinary revision of the list of the municipality and the provisions of law governing the appeal from the decision of the council with respect to the revision of the list apply to the inscription enacted by this Act.

174. Whenever two or more persons are co-owners, co-tenants or co-occupants of any real estate valued at an amount sufficient for the share of each to confer upon him the electoral suffrage

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each of such persons is deemed to be an elector in conformity with this act and shall be entered upon the list of electors.

He whose share does not amount to the value required for the electoral suffrage shall not be so entered, nor be an elector.

The share of each co-tenant depends upon the amount of rent which each pays. 38 V., c. 7, s. 3.

**175.** If the real estate be owned or occupied by, no one of the members of the corporation shall be an elector, nor entered upon the list of electors by reason of such real estate. 28 V., c. 7, s. 10.

§ 2.—Persons who cannot be Electors.

**176.** (Amended by 52, V., c. 3, s. 1 and 2). The following persons can, in no case, be electors or vote :

1. The judges of the Court of Queen's Bench and of the Superior Court, the judges of the Vice Admiralty Court, the Judges of the sessions, district magistrates, recorders ;

2. Officers of the customs, clerks of the Crown, clerks of the peace, registrars, sheriffs, deputy-sheriffs, deputy-clerks of the Crown, and the officers and men of the provincial police force ;

3. Agents for the sale of Crown lands, postmasters in cities and towns, and all officers employed in the collection of any duties payable to Her Majesty in the nature of duties of excise, including collectors as well of federal as of local revenue.

If any of the persons set forth in this article vote, save in the case of article 356, he shall incur a penalty of not more than five hundred or less than one hundred dollars, or imprisonment not exceeding twelve months in default of payment, and his vote shall be null and of no effect. 38 V., c. 7, s. 11.

4. All persons, excepting postmasters other than those mentioned in paragraph 3, who occupy a permanent and salaried position under the Government of the Dominion of Canada or of this Province.

All those who receive regular wages or salaries from the Public Departments of Canada or of the Province, from the Federal Parliament or from the Provincial Legislature, the members of the Executive Council of the Province and of the Privy Council of Canada, the Speakers of the Senate and House of Commons of Canada and of the Legislative Council and Legislative Assembly of the Province not being included amongst those who are thus deprived of their right to vote shall be considered to be persons occupying a permanent salaried position according to the terms of preceding paragraphs."

§ 3.—Preparation of the List of Electors.

**177.** (Replaced by 52 V., c. 4, s. 4, and amended by 53, V., c. 7, s. 2.) The treasury-treasurer of each municipality shall, bet-

ween the first and fifteenth days of the month of March in each year, make, in duplicate, a list in alphabetical order of all persons who, according to the valuation roll, then in force in the municipality for municipal purposes, appear to be electors by reason of the real estate possessed or occupied by them in any manner within the municipality, or by reason of being otherwise qualified as set forth in article 173.

In the counties of Gaspé and Bonaventure, however, the secretary-treasurer of each municipality shall, every year, between the first and fifteenth of the month of July, make the list of electors in duplicate.

But for the current year in the counties of Gaspé and Bonaventure the list shall be made from the first of April to the thirty-first of May inclusively."

**178.** (Replaced by 52 V. c. 4, s. 5.) The secretary-treasurer in drawing up the list of electors, shall insert the qualification as voter, so that it may appear under what head the elector is entered.

He shall also specify the immovable property, the revenue in the case of annuitants as well as the name of the father or mother if it is as a farmer's son, or son of an owner of real property that the name is entered: the whole, so that such list may as nearly as possible be according to form A. of this act.

**179.** The secretary-treasurer shall omit from the list of electors every person who, under articles 176, 426 and 429, or any other legal provision whatsoever, is not entitled to vote. 38 V., c. 7, s. 14; 39 V., c. 13 s. 2.

**180.** If any municipality be situated partly in one electoral district and partly in another, the secretary-treasurer shall prepare, in the same manner for each of such electoral districts, an alphabetical list of the persons who are electors therein. 38 V., c. 7, s. 15.

**181.** If any municipality be divided into voting subdivisions under articles 223, 224 or 225, the secretary-treasurer shall divide the list into as many parts as there are voting subdivisions in the municipality.

Each such part, the title whereof shall be the name, number, or description of the voting subdivision to which it relates, shall contain only the alphabetical list of the electors of such voting subdivision. 38 V., c. 7, s. 16.

**182.** If a person be an elector in one and the same municipality by reason of more than one parcel of real estate or more than one title, his name shall, nevertheless, be entered but once on the list of electors of the municipality.

If the list be drawn up by subdivisions, and one person appears to be an elector in more than one subdivision, his name shall be inserted in one subdivision only: and, if such person be an elector in the subdivision of his domicile, his name shall be entered on the list for such subdivision. 38 V., c. 7, s. 17.

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**183.** In the case of article 180, if a person be an elector in more than one electoral district, his name shall be entered in the list of each electoral district, but in only one voting subdivision in each district in which he is an elector, according to the rules laid down in the preceding article. 38 V., c. 7, s. 18.

**184.** The secretary-treasurer shall certify the correctness of the list of electors by him made by the following oath, taken before a justice of the peace:

"I (*name of the secretary-treasurer*) swear that, to the best of my knowledge and belief, the foregoing list of electors is correct, and that nothing has been inserted therein or omitted therefrom, unduly or by fraud: So help me God."

Each duplicate list must be attested separately under the foregoing oath. 38 V., c. 7, s. 19.

**185.** One of the duplicates of the list so attested shall be kept in the office of the secretary-treasurer at the disposal and for the information of all persons interested. 38 V., c. 7, s. 20.

**186.** (*Amended by 52 V., c. 8.*) The secretary-treasurer, within two days from which he shall take the oath required by article 184, shall give and publish public notice, setting forth that the list of electors has been prepared according to law, and that a duplicate thereof has been lodged in his office, at the disposal and for the information of all persons interested.

Such notice shall be given and published in the same manner as notices for municipal purposes, in the municipality in which the list has been prepared. 38 V., c. 7, s. 21.

**187.** The list of electors may be drawn up in accordance with form A. 38 V., c. 7, s. 22.

**188.** If the secretary-treasurer has not made the alphabetical list of electors, or has not given or published the notice required by article 186, during the first fifteen days of the month of March, then the judge of the Superior Court for the district, or, in the event of the absence of the district judge, or of his inability to act, the district magistrate, on summary petition of the mayor, the registrar or other person entitled to be entered as an elector in the municipality, shall appoint a clerk *ad hoc* to prepare the alphabetical list of electors. 38 V., c. 7, s. 23.

**189.** The secretary-treasurer shall be personally liable for the costs incurred on such petition, and for those incurred in drawing up the list by the clerk *ad hoc*, unless the judge or the district magistrate, for special reasons, deems it advisable to order otherwise, and, in such case, the costs shall be left to their discretion. The secretary-treasurer may, however, draw up and prepare the list, so long as the clerk *ad hoc* shall not have been appointed. 38 V., c. 7, s. 24.

**190.** Within fifteen days after notice of his appointment, the clerk *ad hoc* shall proceed to the preparation of the list of electors. He shall, for such purpose, become an officer of the municipal

council, and shall have the same powers to exercise, and the same duties to discharge, as the secretary-treasurer of the municipality, and shall do so under the same penalties in case of default or neglect on his part. 38 V., c. 7, s. 25.

**191.** In so far as the same is incumbent upon them, the mayor and the officers of the council shall be bound to deliver to the clerk *ad hoc*, on his demand, the valuation roll, which shall prevail as the basis of the list of electors, under a penalty not exceeding two hundred dollars, or, in default of payment, of imprisonment not to exceed six months. 39 V., c. 13, s. 3.

§ 4.—*Examination and putting into force of the List.*

**192.** Upon complaint in writing to such effect, under either of the two following articles, and, not otherwise, the list of electors may be examined and corrected by the council of the municipality within the thirty days next after the publication of the notice, given in virtue of article 186. 39 V., c. 13, s. 4.

**193.** Any person who deems himself aggrieved either by the insertion in or omission of his name from the list may, either by himself or through his agent, file, in the office of the secretary-treasurer, a complaint in writing to such effect, within the fifteen days next after the publication of the notice given under article 186. 38 V., c. 7, s. 28.

**194.** Any person believing that the name of any person entered on the list should not have been so entered, owing to his not possessing the qualifications required for an elector, or believing that the name of any other person not entered thereon should be so entered, owing to his possessing the qualifications required, may file, in the office of the secretary-treasurer, a complaint in writing to such effect within a like delay of fifteen days. 39 V., c. 13, s. 5.

**195.** Before proceeding to any examination or correction of the list of electors, the council shall cause to be given, through the secretary-treasurer, the clerk *ad hoc*, or any other person, public notice of the day and hour at which such examination shall begin.

Previous to taking into consideration the complaints in writing filed in the office of the council with respect to the list of electors the council shall also cause a special notice to be given to every person, the insertion or omission of whose name upon the list is demanded.

The public notice and every special notice required by this article shall be of five days' duration; and they shall further be given and published or served, in the same manner as notices for municipal purposes in the municipality within which the list has been prepared.

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party complaining, a fee of twenty-five cents for each special notice by him given to any person whose name shall neither be added to nor struck from the list by the council, or by the judge if there is an appeal, as hereinafter provided.

The giving of public and other special notices is part of the general duties of the secretary-treasurer. 38 V., c. 7, s. 30; 49-50 V., c. 5, s. 1.

**196.** The council on proceeding to the examination of the list shall take into consideration all the complaints in writing, relating to the said list, and hear all persons interested. 38 V., c. 7, s. 31.

**197.** The council, by its decision on each complaint, may, or correct each of the duplicates of the list. 38 V., c. 7, s. 32.

**198.** If, upon sufficient proof, the council be of opinion that a property has been leased, assigned or made over under any title whatsoever, with the sole object of giving to a person the right of having his name entered on the list of electors, it shall strike the name of such person from the said list upon complaint in writing being made to that effect. 38 V., c. 7, s. 33.

**199.** Every insertion, erasure or correction whatsoever of the list, in virtue of the two preceding articles, shall be authenticated by the initials or *paraph* of the presiding officer of the council. 38 V., c. 7, s. 34.

**200.** The list of electors comes into force at the expiration of the thirty days following the notice given in virtue of article 186, as it then exists, and remains in force until the month of July for the counties of Gaspé and Bonaventure, and until the month of March for the rest of the Province, and, thereafter, until a new list is made and put into force under the authority of this act.

Notwithstanding the appeal to a judge of the Superior Court or to a district magistrate in districts in which there is no judge of the Superior Court, touching a portion of the list, such portion of the said list shall remain in force until the final decision of the court, before which the said petition in appeal is pending. 38 V., c. 7, s. 35; 48 V., c. 2, s. 1.

**201.** Saving, nevertheless, any correction made under article 209, every list of electors so put in force, even although the valuation roll which has served as the basis of such list be defective or shall have been quashed or set aside, shall during the whole period in which it remains in force, be deemed the only true list of electors, within the territorial division to which it relates. 38 V., c. 7, s. 36.

**202.** So soon as the list of electors has come into force, it shall be the duty of the secretary-treasurer to insert at the end of such list, on the duplicate thereof, the certificate set forth in form B. 38 V., c. 7, s. 37.

**203.** One of the duplicates of the list of electors shall be kept

in the archives of the municipality, and shall there remain of record.

Within eight days following the days upon which such list comes into force, the other duplicate shall be transmitted to the registrar of the registration division in which the municipality is situated, by the secretary-treasurer or by the mayor, under a penalty against each of them, in case of contravention of this provision, of a fine of two hundred dollars or of imprisonment for six months in default of payment.

Nevertheless, the transmission of the duplicate of the said list to the registrar after the delay prescribed by this article, or the fact of the same not having been transmitted, shall not have the effect of invalidating such list. 38 V., c. 7, s. 38.

**204.** If, in lieu of the duplicate required by the preceding article, a certified copy of the list has been transmitted to the registrar, such copy shall be deemed to be the duplicate required, and shall have the same effect as if the duplicate had itself been transmitted. 38 V., c. 7, s. 39.

**205.** All duplicates or copies of lists of electors transmitted to the registrar under the two preceding articles, are preserved by such officer, and remain of record in his office.

On receipt of the said duplicates or copies the registrar shall enter upon each the date of the reception thereof. 38 V., c. 7, s. 40.

#### § 5.—Appeal to a Judge.

**206.** By means of a petition, in which are briefly set forth the reasons of appeal, any elector of the electoral division may appeal from any decision of the council, confirming, correcting, or amending the list, to the judge of the Superior Court of the district, within fifteen days following such decision.

The respondent may, in all such appeals, obtain a suspension of the proceedings, until the appellant has given such security as may be considered necessary in the discretion of the court or judge, or deposited such sum as may be specified by the court or judge for the payment of the costs on such appeal. 43-44 V., c. 15, s. 1; 46 V., c. 2, s. 1.

**207.** If, within the time prescribed, the council has neglected or refused to take into consideration a complaint duly filed, any person may appeal to such judge therefrom, in the manner and within the delay of fifteen days after the expiration of the thirty days prescribed in article 192. 39 V., c. 13, s. 7.

**208.** A copy of the petition in appeal is served upon the secretary-treasurer of the municipality, who immediately gives special notice thereof to the mayor, and public notice to the parties interested. 38 V., c. 7, s. 43.

**209.** The judge of the Superior Court shall have full power and authority to hear and decide such appeal in a summary

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manner on any day which he shall fix and shall proceed, without delay from day to day, in term or in vacation.

Such appeal shall have precedence over other causes. 38 V., c. 7, s. 44.

**210.** The judge may also order that further notice be given to any of the parties to the cause, may summon before him and interrogate under oath or affirmation any party or witness, and require the production of any document, paper or thing.

He shall for such purpose possess all the powers conferred upon the Superior Court in relation to matters pending before that court 38 V., c. 7, s. 45.

**211.** No proceedings on such appeal shall be annulled for defect of form. 38 V., c. 7, s. 46.

**212.** The costs of appeal shall be taxed in the discretion of the judge, for or against such of the parties as he shall deem advisable, and shall be recoverable under a writ of execution issued in the usual manner. 38 V., c. 7, s. 47.

**213.** The decision of the judge is final. 38 V., c. 7, s. 48.

**214.** The secretary-treasurers and the registrar shall each correct the duplicate of the list of electors in his possession, according to the decision of the court, immediately upon authentic copies thereof being served upon them. 38 V., c. 7, s. 49.

**215.** In any district in which there is no resident judge of the Superior Court, the appeal specified in articles 206 and 207 may, however, be brought before the district magistrate for such district, in the same manner and with the same effect as before the judge of the Superior Court. 38 V., c. 7, s. 50.

§ 6.—Miscellaneous.

**216.** If, at any time, it be made to appear to any judge of the Superior Court, in term or in vacation, that the secretary-treasurer of any municipality, or the registrar of the registration division, has altered or falsified, or has permitted to be altered or falsified the duplicate of the list in the possession of either, the judge shall require the secretary-treasurer, the registrar and every person having the custody of the valuation roll, which served as the basis of the list, to appear before him and to produce the rolls and lists in their possession. 38 V., c. 7, s. 51.

**217.** At the time and place fixed for the appearance of such persons, the judge, after having examined the duplicates of the list produced by the secretary-treasurer and the registrar, together with the valuation roll, shall, with or without further proof, make the alterations or corrections which he shall deem necessary, to render the duplicate, so altered or falsified, accurate and faithful. 38 V., c. 7, s. 52.

**218.** It shall be the duty of the secretary-treasurer of every municipality and of the registrar of every registration division,

having the custody of a list of electors, to deliver certified copies thereof to any person applying therefor, and offering to pay, for the cost of any such copy, three cents for every ten electors entered on the list. 38 V., c. 7, s. 53.

**219.** The secretary-treasurer of every municipality shall furnish, *gratis*, on demand, to every deputy returning officer acting within the limits of the municipality, a certified copy of the list of electors to avail at the election, or of that part of such list which relates to the locality for which such deputy returning officer acts. 38 V., c. 7, s. 54.

**220.** The cost of all copies of the list of electors given by the registrar, in consequence of the secretary-treasurer having refused or neglected to furnish the same, under the preceding article, may be recovered from the secretary-treasurer or the corporation whose officer he is, either by the registrar who has given the copies, or by the returning officer or deputy returning officer who shall have procured the same. 38 V., c. 7, s. 55.

**221.** Every secretary-treasurer, who has refused or neglected to make the alphabetical list of electors as required by this act, or who, having made the list, has wilfully inserted therein or omitted therefrom any name which should not have been so inserted or omitted, shall incur a penalty not exceeding five hundred dollars, and, in default of payment, imprisonment not exceeding twelve months. 40 V., c. 27, s. 1.

**222.** Every person, having the custody of lists of electors and whose duty it is to deliver copies thereof, who shall have made any insertion or omission, as in the preceding article mentioned, in the copies furnished by him, shall incur the penalty prescribed in the said article. 40 V., c. 27, s. 1.

### § 7.—*Voting Subdivisions.*

**223.** Whenever, in any municipality, the number of electors shall exceed two hundred, it shall be duty of the council of such municipality, by a by-law made in the ordinary way, to divide the municipality into voting subdivisions, so that there shall not be more than two hundred electors in each voting subdivision.

The limits of these subdivisions shall be well defined, and shall not divide any real estate under which an elector is entitled to vote. 38 V., c. 7, s. 59 ; ; 39 V., c. 13, s. 8.

**224.** Whenever any one of such voting subdivisions shall contain more than two hundred electors, it shall be the duty of the council, by by-law, to subdivide such voting subdivision into others not containing more than two hundred electors each. 38 V., c. 7, s. 60 ; 39 V., c. 13, s. 8.

**225.** For the greater convenience of the electors, the council may always, and at any time, amend or repeal any by-law made

under article provided by

**226.** No be appealed

**227.** Every lity into vo in force upo force until t of this act.

under articles 223 and 224, and may make a new division as provided by article 223. 38 V., c. 7, s. 61.

**226.** No by-law made under the three preceding articles shall be appealed from to the county council. 38 V., c. 7, s. 8.

**227.** Every by-law or municipal order dividing a municipality into voting subdivisions or other analogous subdivisions, in force upon the coming into effect of this act shall remain in force until the same is replaced or repealed under the authority of this act. 38 V., c. 7, s. 33.

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## QUEBEC ELECTION ACT.

PROVINCE OF QUEBEC, } FORM A.  
 Municipality of }  
 In the County of } **List of Electors for the Legislative Assembly.**

Surnames.	Names.	Occupation.	Residence.	Nature of Qualification.	Names and surnames of father or mother, if the person is entered as farmer's son, &c.	Description of immovable.	Remarks.
1 Aubin.....	Jean-Baptiste	Farmer.....	St. James	Proprietor.....	Jean-Baptiste Aubin.....	Conc. des Pins No.....	Eldest son.
2 Aubin, fils.	Jean-Baptiste	Farmer.....	St. James	Farmer's son.....	Jean-Baptiste Aubin.....	Idem.....	Younger son.
3 Aubin.....	Joseph.....	Farmer.....	St. James	Farmer's son.....	Jean-Baptiste Aubin.....	Idem.....	Eldest son.
4 Bédard.....	Joseph.....	Farmer.....	St. James	Tenant.....	Joseph Bédard.....	Village, No.....	Younger son.
5 Bédard, fils.	Joseph.....	Farmer.....	St. James	Farmer's son.....	Joseph Bédard.....	Idem.....	Eldest son.
6 Marchand.....	Gabriel.....	Sch'l t'cher.....	St. James	School teacher.....	Joseph Bédard.....	Idem.....	Village School.
7 Broussau.....	Louis.....	Bentier.....	St. James	Bentier—\$200.....	Joseph Bédard.....	Idem.....	Eldest son.
8 Jacques.....	Stanislas.....	Wheel-w'ht.....	St. James	Proprietor.....	Joseph Bédard.....	Idem.....	Younger son.
9 Lorimier.....	Charles.....	Farmer.....	St. James	Farmer's son.....	Marg. Bourgeois, wi- dow of Chs Lorimier.....	Cadastre No.....	Eldest son.
10 Larucé.....	Joseph.....	Farmer.....	St. James	Farmer's son.....	Idem.....	Conc. des Pins, No.....	Younger son.
11 Lorimier.....	Jean-Baptiste	Physician.....	St. James	Proprietor.....	Idem.....	Idem.....	Eldest son.
12 Sylvestre.....	Louis.....	Farmer.....	St. James	Proprietor.....	Idem.....	Village No.....	Younger son.
13 Sylvestre.....	Pierre.....	Student.....	Quebec.....	Farmer's son.....	Louis Sylvestre.....	St. Michel range, No.....	Eldest son.
14 Tourville.....	Jean.....	Fisherman.....	St-Jacques.....	Occup't. & Owner of shares in a regist. ship \$150.....	Louis Sylvestre.....	Idem.....	Younger son.
						Village.....	Real estate oc- cupied and sha- res in ship va- lued together.....

Made in duplicate this \_\_\_\_\_ day of the month of \_\_\_\_\_ eighteen hundred and \_\_\_\_\_  
 1, P. P., swear to the best of my knowledge and belief the foregoing list of electors is correct, and that nothing has been  
 entered therein or omitted therefrom, unduly or by fraud: So help me God.  
 Sworn at \_\_\_\_\_ this \_\_\_\_\_ day \_\_\_\_\_ 18 \_\_\_\_\_  
 before me the undersigned \_\_\_\_\_  
 P. P.,  
 Secretary-Treasurer.

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If the Cadastre in the Municipality has been completed, the description of the immoveable by the number given in the Cadastral plan and book of reference will be sufficient.

The list of electors shall be made in duplicate, that is to say: the Secretary having correctly prepared and made a clean copy of the list of electors, shall make another exactly similar to the first.

The Secretary-Treasurer shall take two distinct oaths, one oath on one duplicate and the other oath on the other duplicate. The two oaths shall be taken on the same day.

The Secretary-Treasurer shall, on the same day, give the notice required by section 21 in the manner ordinary in use for municipal matters, and at the expiration of the 30 days next after such notice, he shall place at the end of the list of each duplicate, the certificate given in the following form :

B

FORM MENTIONED IN SECTION 37.

I, the undersigned, P. P., Secretary-Treasurer, certify, on my oath of office :

1. That I have given the notice required by section 21 of *The Quebec Electoral Act*;

2. That, from the date of such notice, one of the duplicates of the above list remained in my office at the disposal of all persons interested ;

3. That this list has been examined (and corrected if it has been corrected) by the Council of this Municipality, within the thirty days next after the said day (date of the publication of notice required by section 21,) that is to say : at the sittings of the Council held on the (days when sittings were held,) and that the corrections (if there were any made) were initialed by B. B., Mayor (or C. G., Councillor, presiding in the absence of the Mayor, (as the case may be) ;

(or if the list has not been examined,)

That this list has not been examined by the Council of this Municipality within the thirty days after the said day (date of the publication of the notice required by section 31) ;

4. That the above list of electors thus came into force on the day of the month of \_\_\_\_\_, eighteen hundred \_\_\_\_\_, being the thirtieth day after the (date of the publication of notice required by section 21).

Made on both duplicates of the list this \_\_\_\_\_ day of \_\_\_\_\_

P. P.,  
Secretary-Treasurer.

eighteen hundred and \_\_\_\_\_ day of the month of \_\_\_\_\_  
I, P. P., swear to the best of my knowledge and belief the foregoing list of electors is correct, and that nothing has been entered therein or omitted therefrom, untruthfully or by fraud. So help me God.  
Sworn at \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, before me the undersigned \_\_\_\_\_  
P. P., Justices of the Peace.

P. P.,  
Secretary-Treasurer.

# SCHOOL TAXES AND VALUATION.

(Revised Statutes of Quebec.)

## CHAPTER VI.

**1.** (*R. S. Q., art. 2128*). In all places where a valuation of property has been made by order of the municipal authorities, such valuation shall serve as the basis of the taxes to be imposed under the authority of this title.

The secretary-treasurer of the municipal council shall, on demand, furnish to the school commissioners or trustees a copy of any such valuation; but, if no such valuation have been made, the school commissioners or trustees may cause the same to be made by three persons appointed for that purpose. C. S. L. C., c. 15, s. 78.

**2.** (*R. S. Q., art. 2129*). If there be no existing property valuation, either for the county or for the particular municipality in question, upon which school taxes can be based, or if the persons, in whose hands such valuation is deposited, refuse, or neglect, after having been thereunto required by ten day's notice in writing, to deliver to the school commissioners or trustees of a school municipality entitled thereto, or to their secretary-treasurer, the original of the said valuation or a certified copy thereof,—(which copy, being so certified to be true by the person so having the custody of the original, shall be *prima facie* evidence of the contents thereof,)—the school commissioners or trustees may, at all times after such refusal or neglect, cause such property valuation to be made by three valuers to be appointed and authorized by them for that purpose. C. S. L. C., c. 15, s. 79 § 1.

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## JURORS AND JURIES.

(Revised Statutes of Quebec).

### SECTION. I.

#### DECLARATORY AND INTERPRETATIVE.

**2617.** The present chapter may be designated and cited as the "Jury Law of the Province of Quebec." 46 V., c. 16, s. 53.

2. In this chapter, the word "municipality" includes villages, towns and cities and every municipal corporation whatsoever; and the words "the court" shall mean the court, having criminal or civil jurisdiction, (as the case may be) which shall be sitting at the time and place when and where any provision of this chapter, in which those words occur, requires to be applied and enforced. 46 V., c. 16, s. 60.

3. This chapter shall apply to criminal matters only, except where the context plainly extends the provisions thereof to other matters. 46 V., c. 16, s. 61.

### SECTION II.

#### QUALIFICATIONS AND DISQUALIFICATIONS OF JURORS.

##### § 1.—Persons qualified to be Grand Jurors.

**2618.** Subject to the exemption and disqualifications herein-after provided for, the following persons are qualified to act, and, when duly chosen and summoned, are bound to serve as grand jurors:

1. Every person, domiciled in a town or city, containing at least twenty thousand inhabitants, or in the *banlieue* thereof, who is entered upon the valuation roll as proprietor of immoveable property of a total value above three thousand dollars, or as occupant or tenant of immoveable property of an annual value above three hundred dollars;

2. Every male person, domiciled within the limits of any municipality in the counties of Gaspé and Bonaventure, and entered upon the valuation roll as proprietor of immoveable property of a value above one thousand dollars, or occupant or tenant for an annual value above one hundred dollars;

3. In all other parts of the Province, every male person domiciled within the limits of any municipality, any part whereof is situated within thirty miles of the place of holding the court in the district in which he resides, who is entered upon the valua-

tion roll, as proprietor of immoveable property of a total value above two thousand dollars, or as occupant or tenant, of immoveable property of annual value or above one hundred and fifty dollars. 46 V., c. 16, s. 1; 47 V., c. 11, s. 1.

§ 2.—*Persons qualified to be Petit Jurors.*

**2619.** Subject to the exemptions and disqualifications hereinafter provided for, the following persons are qualified to act, and, when duly chosen and summoned, are bound to serve as petit jurors :

1. Every male person, domiciled in a town or city, containing at least twenty thousand inhabitants, or in the *banlieue* thereof, who is entered upon the valuation roll as proprietor of immoveable property of a total value of at least twelve hundred dollars, but not more than three thousand dollars, or as occupant or tenant of immoveable property of an annual value of at least one hundred dollars but not more than three hundred dollars ;

2. Every male person, domiciled within the limits of any municipality in the counties of Gaspé and Bonaventure, and entered on the valuation roll as proprietor of a total value of at least four hundred dollars and not more than one thousand dollars, or occupant or tenant for an annual value of at least forty dollars and not more than one hundred dollars ;

3. In all other parts of the Province, every male person, domiciled within the limits of any municipality, whereof any part is situated within thirty miles of the place of holding the court in the district in which he resides, who is entered upon the valuation roll as proprietor of immoveable property of a total value of at least one thousand dollars, but not more than two thousand dollars, or as occupant or tenant of immoveable property of an annual value of at least eighty dollars, but not more than one hundred and fifty dollars. 46 V., c. 16, s. 2.

§ 3.—*Persons not qualified to be Jurors.*

**2620.** The following persons are disqualified from serving as grand or petit jurors, respectively :

1. Persons who are not qualified as such under the preceding articles of this section ;

2. Persons under the age of twenty-one years ;

3. Persons afflicted with blindness, deafness, or any other physical or mental infirmity incompatible with the discharge the duties of a juror ;

4. Persons who are arrested or under bail upon a charge of treason or felony, or who have been convicted thereof ;

5. Aliens. 46 V., c. 16, s. 3.

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§ 4.—*Persons exempt from being Jurors.*

**2621.** The following persons are exempt from serving as jurors:

1. Members of the clergy;
2. Members of the Privy Council, or of the Senate, or of the House of Commons of Canada, or persons in the employ of the Government of Canada;
3. Members of the Executive Council, Legislative Council or Legislative Assembly of Quebec, or persons in the employ of the Government of Quebec or of the Legislature of this Province;
4. Judges of the Supreme Court, of the Court of Queen's Bench and of the Superior Court, judges of the sessions, district magistrates and recorders;
5. Officers of Her Majesty's courts;
6. Registrars;
7. Practising advocates and notaries;
8. Practising physicians, surgeons, dentists, and druggists;
9. Professors in universities, colleges, high schools or normal schools and teachers;
10. Cashiers, tellers, clerks and accountants of incorporated banks;
11. Clerks, treasurers and other municipal officers of the cities of Quebec and Montreal;
12. Officers of the army or navy on active service;
13. Officers, non-commissioned officers and privates of the active militia;
14. Pilots duly licensed;
15. Masters and crews of steamboats and masters of schooners, during the season of navigation;
16. All persons employed in the running of railway trains;
17. All persons employed in the working of grist mills;
18. Firemen;
19. Persons above sixty years of age;
20. The persons mentioned in section twenty-three of the act fourth and fifth Victoria, chapter ninety to wit: the members of the council and of the board of arbitration of the Montreal Board of Trade. 46 V., c. 16, s. 4; 46 V., c. 34, s. 23.

## SECTION III.

EXTRACTS FROM VALUATION ROLLS, CONTAINING THE NAMES OF PERSONS QUALIFIED TO BE JURORS.

**2621a.** (*Added by 53 V., c. 34, s. 2, and amended by 53 V., c. 35, s. 1.*) A board, known as the "Revising Board" is charged

with examining and revising the list of jurors and with renewing the same, when required so to do, under article 2622.

Such board is composed of the sheriff, the clerk of the Crown and the registrar."

The word "registrar" for such purposes means the registrar for the registration division in which is situate the *chef lieu* of the judicial district, except in the district of Montreal, where it means the registrar of the registration division of Montreal West.

The deputy sheriff is *ex officio* clerk of the board, the sittings whereof are not public."

**2622.** (Replaced by 53 V., c 34, s. 3). Whenever the revising board deems it advisable to renew the list of jurors, because the registers containing them become defaced or are filled up, or if the corrections have become so numerous as to render the lists illegible, the clerk or the secretary-treasurer of every municipality is obliged, when the said board requires it of him, to deliver to the sheriff, within the month following such demand, an extract from the valuation roll in accordance with form A of this chapter, containing the names of all persons inscribed on such roll domiciled in the municipality being qualified as grand or petit jurors."

**2623.** (Amended by 53 V., c. 34, s. 4.) Every year, during the month following the homologation or revision of the valuation roll, in any municipality situated wholly or partly within thirty miles of the place in which is held the court of the district in which such municipality is situated, it is the duty of the clerk or the secretary-treasurer, (when the extract above mentioned is not asked for by the revising board) to deliver to the sheriff gratuitously, in accordance with form B of this chapter, containing :

1. The names of persons who have, since the last extract or supplement, become qualified as jurors;
2. The names of all persons who, to his knowledge, have, since the forwarding of the last extract or of the previous supplement, died, or

No longer reside within the limits of the municipality, or

Have become disqualified or exempt from serving as jurors; and

3. The names of all persons erroneously entered upon or omitted from previous extracts or supplements. 48 V., c. 17, s. 1.

**2624.** In giving the names of the persons who have ceased to be jurors since the last extract or previous supplement, the clerk or secretary-treasurer shall identify them correctly by indicating their status, amount of assessment and domicile when their names were for the first time forwarded to the sheriff at the time of the extract or since. 48 V., c. 17, s. 1.

**2625.** The clerk or secretary-treasurer shall, by making the necessary inquiries, when the valuation roll is being prepared,

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ascertain what persons within his municipality are disqualified or exempt from serving as jurors, and he shall not, under penalty of a fine of not less than one dollar or more than twenty dollars for each name, knowingly include in any extract or supplement to be furnished to the sheriff the name of any person so disqualified or exempt under articles 2620 and 2621. 46 V., c. 16, s. 7.

**2626.** Such extract and supplement shall give:

1. The name or the names and surnames of the persons entered therein;
2. Their occupation;
3. Their domicile;
4. The amount for which they are assessed as proprietors, occupants or tenants; and
5. All the details and information required to establish their identity.

For the purposes of this article, as well as for those of this chapter, the clerk or secretary-treasurer shall be considered to be an officer of the court.

In the extract delivered to the sheriff the name of the same person should appear only once as a juror. 46 V., c. 16, s. 8; 48 V., c. 17, s. 2.

**2627.** The clerk or secretary-treasurer shall make and keep, among the records of his office, and open to gratuitous public inspection, a duplicate of every extract or supplement which he furnished to the sheriff as aforesaid. 46 V., c. 16, s. 11.

**2628.** Every extract or supplement shall be accompanied with an affidavit of the clerk or secretary-treasurer, in the form C of this chapter, made and signed by him before a justice of the peace, and testifying under oath to his belief in the correctness of the said extract and supplement and of the information therein furnished. 46 V., c. 16, s. 12.

**2629.** The clerk or secretary-treasurer is entitled to receive, from the corporation or municipal council of which he is the officer, upon production of the sheriff's certificate that such extract or supplement is made in the manner prescribed by this chapter, the sum of five cents for each name entered by him in such extract or supplement, and fifty cents for every necessary affidavit made by him. 46 V., c. 16, s. 13.

**2630.** Before delivering to the sheriff an extract or supplement, the clerk or secretary-treasurer of the municipality shall give a public notice to the effect:

- 1st. That such extract or supplement shall be submitted to the consideration of the municipal council at a general or special meeting of the council called for that purpose;
- 2ndly. That the persons, who have a right to be exempt from serving as jurors in virtue of the law, must ascertain from the

clerk or secretary-treasurer that their names have been struck from the extract or supplement.

2. Such notice shall be published fifteen days before the meeting of the municipal council, in the following manner:

1st. In cities and towns it shall be published twice a week during two consecutive weeks in a newspaper published in the French language and in a newspaper published in the English language, or in both languages in the same newspaper if there be only one newspaper published in the locality;

2ndly. In all other parts of the Province it shall be published in the manner prescribed by the Municipal Code for the publication of public notices.

3. The municipal council shall, at the meeting convened as aforesaid, examine the extract or supplement, make all corrections therein which it deems necessary, and approve the same, after having ascertained, with all possible care, that the names of all persons who are disqualified or exempt from serving as jurors are not therein entered.

In testimony of such approval, the extract or supplement is signed by the head of the council or councillor presiding at such meeting and also by the clerk or secretary-treasurer. 48 V., c. 17, s. 4.

**2631.** If any clerk or secretary-treasurer fail to cause any extract or supplement, as the case may be, to be transmitted within the time and in the manner prescribed by this chapter, the sheriff shall procure the same from such clerk or secretary-treasurer; and he is authorized to take communication of the valuation rolls and other documents which may be found necessary in the preparation of such extract or supplement, and he may recover, before any competent court, from the municipality (saving the latter's recourse against such clerk or secretary-treasurer) his disbursements in and about procuring such extract or supplement. 46 V., c. 16, s. 15.

**2632.** If, in any municipality, from which jurors should be summoned, there exist no valuation roll, the sheriff shall, at the expense of such municipality, cause lists to be made of the persons domiciled within such municipality, and qualified to be grand and petit jurors respectively.

Such lists shall be prepared from the best information obtainable and shall be sworn to by the person employed to make the same.

Such lists shall be retained, held, and used for the same purposes, in the same manner, and with the same effect, as if they were extracts from valuation rolls delivered to the sheriff under this chapter. 46 V., c. 16, s. 16.

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## SECTION IV.

## LIST AND PANELS OF JURORS.

§ 1.—*Lists of Jurors made by the Revising Board.*

**2633.** (*Replaced by 53 V., c. 34, s. 6 and amended by 53 V., c. 35, s. 2.*) Upon receipt of the extract from the valuation rolls, the revising board shall, upon the day fixed by the sheriff who forms part of the board, prepare two lists,—the first containing the names of the grand jurors, and the second the names of the petit jurors.

**2634.** (*Amended by 53 V., c. 34, s. 7.*) The grand and petit jury lists are made by the revising board successively inserting, in registers kept for that purpose the name of the first person in every extract furnished to him, and afterwards the name of the second person, and so on in rotation till the names of all the persons appearing on each such extract are exhausted.

If the number of jurymen, appearing upon any of such extracts, exceeds the number appearing upon others, the revising board shall successively take, from the more numerous extracts, a proportionate number of names, so that the jurors from each municipality may be distributed throughout the whole list in a manner corresponding, as far as practicable, to the proportion which the total number of jurors in such municipality bears to the total number of jurors on the list. 46 V., c. 16, s. 18.

**2635.** (*Amended by 53 V., c. 34, s. 8.*) The lists of jurors, so entered in the registers, are authenticated by the certificate and signature of the clerk of the revising board, and such lists shall not be altered in any manner whatsoever, except in the manner prescribed by this chapter. 46 V., c. 16, s. 19.

**2636.** These registers shall be kept in the sheriff's office, and as soon as the grand jury list is prepared he shall give notice to the prothonotary of the Superior Court, who shall forthwith prepare a copy for the use of such court. 46 V., c. 16, s. 20; 47 V., c. 11, s. 2.

**2637.** All persons shall, between the hours of nine in the morning and four in the afternoon of every juridical day, have free access to the copies of the grand jury list so deposited in the office of the prothonotary, without being thereby liable to fee or charge whatsoever. 46 V., c. 16, s. 21.

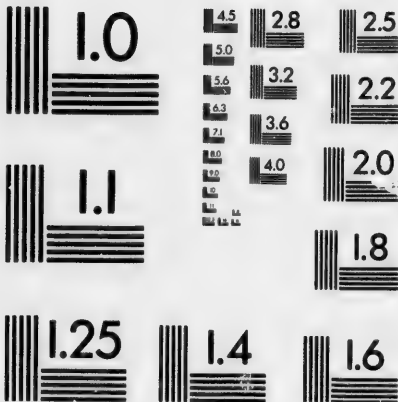
§ 2.—*Revision of Jury Lists.*

**2638.** (*Amended by 53 V., c. 34, s. 9.*) The lists of jurors are revised by the revising board once a year. Such revision shall be terminated as soon as possible, but no



# MICROCOPY RESOLUTION TEST CHART

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later than three months after the date of the reception of such lists.

It is based upon the information contained in the lists obtained from the municipalities under the law. 48 V., c. 17, s. 6.

**2639.** Such revision is effected :

1. By drawing a line in ink through the name of each juror who has died or has removed his domicile from the municipality, or has become disqualified or exempt ;

2. By adding to the jury lists the names and surnames in full, with the residence and occupation, of all persons indicated as new jurors in the supplements.

Such additional names shall be arranged and distributed on the jury list, in the same manner as is herein provided for the distribution of the names of the jurors, entered in such list at the making thereof. 46 V., c. 16, s. 23 ; 48 V., c. 17, s. 7.

**2640.** (*Amended by 53 V. c. 34, s. 10*). When any name is so struck out, the reason of so striking it out shall be written opposite such name and be initialed by the clerk of the revising board with his signature, in the same manner as on the first completion of the registers containing the jury lists. 46 V., c. 16, s. 24.

**2641.** The sheriff shall, immediately after the revision of any jury list, notify the prothonotary of the Superior Court, who shall forthwith correct the copy in his possession, so as to make it conform to the jury lists so revised, and such corrections shall be certified by the sheriff. 46 V., c. 16, s. 25.

**2642.** (*Replaced by 53 V., c. 34, s. 11*). If it be established in a satisfactory manner before the revising board, by affidavit or writing, that the name of any person who is disqualified or exempt has been erroneously inserted in the extract or supplements delivered to the sheriff, or that a juror has died or removed his domicile from the municipality or has become disqualified or exempt, the board shall cause such name to be struck from its clerk from the list, and the reason therefor to be noted opposite the name of the juror in one of the columns left for that purpose.

The clerk of the revising board shall initial such change and the sheriff shall give notice thereof to the clerk or secretary-treasurer of the municipality, who shall make the same duplicate the list or supplement in his possession.

**2643.** (*Amended by 53 V., c. 34, s. 12*). Upon any complaint with notice to the party interested, and proof that in making the jury list the name of any person not qualified to serve as a juror or disqualified or exempt, has been inserted therein, or that the name of any person, fit and qualified to serve as such, has been omitted therefrom, the court or a judge thereof in vacation, may order the name of such unqualified or exempted person to

struck out and serve as a juror over again.

In such case the cost of the trial shall be at the discretion of the court.

**2644.**

which the court may be not made over again by the Attorney General, to the vacation, the court may, by such district judge, by such judge, be made, or until the next session.

**2645.**

revised, or in the same force as the original, as prescribed by law.

**2646.**

(*Amended by 53 V., c. 34, s. 11*).

**2647.**

(*Amended by 53 V., c. 34, s. 11*).

**2648.**

In the case of the sheriff of the county, when such name is struck out, 46 V., c. 16, s. 24.

**2649.**

In the case of the district in which the number of persons speaking the English language or the first English name of the person is less than one, 46 V., c. 16, s. 24.

**2650.**

Exempted from other districts, language and name shall be permitted to be summoned for any session of the court, shall be such districts, in turn, order of the list, preceding article.

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struck out of such list, or the name of any person, qualified to serve as a juror, to be inserted therein, or the list to be made over again or corrected, as the case may be.

In such case the court or judge may make such order as to the cost of correcting or making anew such list, as may, in its discretion, appear just. 46 V., c. 16, s. 27.

**2644.** (*Amended 53 V., c. 34, s. 13.*) If the lists of jurors, which the revising board is required to make, revise, or renew, be not made, revised, or renewed, in the manner and within the period hereinbefore fixed, then as soon as the fact is made known, by the Attorney-General, clerk of the peace, or clerk of the Crown, to the court for the district, or to any judge thereof in vacation, the court or judge shall order the revising board of such district to make, revise, or renew such list of jurors, and shall, by such order, fix a period within which such lists shall be made, revised or renewed; the old lists remaining in force until the new ones are completed or revised. 46 V., c. 16, s. 28.

**2645.** (*Amended by 53 V., c. 34, s. 14.*) The lists made, revised, or renewed under any such order, shall then be of the same force and effect as if originally made within the time prescribed by law.

**2646.** (*Repealed by 53 V., c. 34, s. 15.*)

**2647.** (*Repealed by 53 V., c. 34, s. 15.*)

**2648.** In making any panel of grand or petit jurors, the sheriff of the district begins with the first name upon the register, when such register is newly made, and thereafter with the first name following that of the last juror already summoned. 46 V., c. 16, s. 32.

**2649.** In the districts of Quebec and Montreal, and in any district in which the sheriff is required to summon an equal number of persons speaking the French language and of persons speaking the English language, he shall, in making the panel of grand or petit jurors, begin by entering the first French name or the first English name immediately following the last French name or the last English name of the jurors last summoned. 46 V., c. 16, s. 33.

**2650.** Except in the districts of Quebec and Montreal, and in other districts in which juries, one half speaking the French language and one half speaking the English language, are or shall be permitted by law, the panel of grand jurors, to be summoned for any term of the Court of Queen's Bench, or for any session of the court of general sessions of the peace, in any district, shall be made from the grand jury list then in force in such districts by taking therefrom the names of twenty-four persons in turn, following uninterrupted and successively the order of the lists, commencing as provided in and by the two preceding articles, and so on successively until the number on

the list has been entirely gone through, and than beginning again and going through in like manner. 46 V., c. 16, s. 34.

**2651.** Except in the districts of Quebec and Montreal, and in the other districts in which juries, one half speaking the French language and one half speaking the English language, are or shall be permitted by law, the panel of petit jurors, to be summoned for any term of the Court of Queen's Bench, or for any session of the court of general sessions of the peace, shall be taken from the petit jury list then in force, by taking therefrom the names of forty persons in turn, following the order of the lists, commencing as provided in articles 2648 and 2649, and so on successively, until the number on the lists has been entirely gone through and then beginning again and going through in like manner. 46 V., c. 16, s. 35.

**2652.** In the districts of Quebec and Montreal there shall be twenty-four grand jurors and sixty petit jurors summoned to serve before any court holding criminal jurisdiction, one half of whom shall be composed of persons speaking the French language and the other half of persons speaking the English language.

Such persons are taken by the sheriff from the lists of grand jurors and petit jurors respectively, in the order, in which the names of each class appears therein, commencing as provided by this chapter for the making of panels of grand and petit jurors respectively.

The provisions of this article may be extended to any other district, by an order of the Lieutenant-Governor in Council, upon the presentment of the grand jury of such district, approved by the presiding judge, declaring the expediency of such extension. 46 V., c. 16, s. 36.

**2653.** In districts other than those of Quebec and Montreal and in those which the provisions of the preceding article are to apply, when application for a jury *medietate lingue* is made to the judge of the district of which the court is to sit, the court may, if it deem it expedient, authorize the sheriff of the district to summon a petit jury composed one half of persons speaking the French language and one half of persons speaking the English language.

Such summoning shall be made in the manner required by paragraph 3 of article 2660. 47 V., c. 11, s. 3.

**2154.** If the sheriff or protonotary be required by this chapter or by any order made thereunder, to insert, in any panel of any kind, the names of persons possessing any special qualification either of language or occupation, such qualification shall be by him inserted on the panel, opposite the name of such juror; such designation or qualification shall be *prima facie* evidence of the possession of such qualification by the juror opposite whose name it is placed. 46 V., c. 16, s. 37.

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**2655.** Neither the grand jury panel, nor the petit jury panel, or the name of any person on such panel, shall be communicated, either verbally or otherwise, by the sheriff, his bailliffs or other employees, to any person or persons whomsoever, until after such panel is returned into court; nor shall such panels or the registers containing the jury lists be inspected by, or communicated to any person, except by the sheriff or his employees, and the prothonotary for the purposes of article 2636, unless upon a special order of the court or judge. 46 V., c. 16, s. 38.

### SECTION V.

#### SUMMONING OF JURORS.

##### § 1.—*Summoning of Jurors in Criminal Cases.*

**2656.** In every district except the districts of Quebec and Montreal, the clerk of the Crown, or the clerk of the peace, as the case may be, before giving instructions to the sheriff to summon persons to serve as grand or petit jurors, shall transmit to the Attorney-General a list of all the criminal cases to be tried at the next term or session of any court of criminal jurisdiction about to be held; and the clerk of the Crown or clerk of the peace shall not give instruction to the said sheriff to summon a panel of grand or petit jurors for such term, unless authorized to do so by the Attorney-General.

Every such court shall nevertheless meet at the time fixed by law; and if thereupon it appear to the court to be necessary for the investigation or trial of any case coming before it, the court may then direct the sheriff to summon the usual number of persons to serve as grand or petit jurors before such court on any day to which it may be adjourned.

All proceedings, had at and before such adjourned court, shall be as valid as if held at or before such court at the ordinary time of holding it; and any judge, holding any such adjourned court, shall adjourn the same from day to day, so long as there is any business before it; but nothing herein contained shall prevent the court in the absence of grand and petit jurors, from proceeding with the despatch of such business as does not require the presence of either. 46 V., c. 16, s. 39.

**2657.** In each district, the clerk of the Crown or clerk of the peace, as the case may be, shall with the authorization of the Attorney-General as aforesaid, give at least thirty days before the term of the court, instructions to the sheriff to summon the grand and petit jurors. 47 V., c. 11, s. 4.

**2658.** Immediately after receiving instructions to summon the grand and petit jurors, the sheriff shall prepare a summons for each juror, whose name is on the panel and whose attendance is required for the next following term.

The summons may be served by any bailiff of the Superior

Court, or by any person of age and able to read and to write, and such service shall be established by a certificate, stating whether it was made personally, or upon a reasonable member of the family, the name of the juror, the day, hour and place of service, and the distance necessarily travelled in order to effect such service. 46 V., c. 16, s. 40.

**2659.** The certificate of the bailiff shall be on his oath of office; and the certificate of any other person shall be sworn to before a justice of the peace, the sheriff or his deputy.

In the event of the summons not being served, either because the person, whose attendance is required as juror, is dead, or no longer resides within the municipality, or cannot be found, such facts shall also be mentioned in the certificate. 46 V., c. 16, s. 41.

**2660.** The sheriff is obliged:

1. In case of a first panel:

*a.* To cause the jurors upon the first panel which he has prepared to be summoned at least fourteen days before the first juridical day of the term, and

*b.* To cause the jurors upon the supplementary panel to be summoned at least six days before the term, so as to replace those who either could not be summoned or who have given notice of their intention to claim exemption;

2. In the case of subsequent panels:

*a.* To cause the jurors therein mentioned to be summoned six days before the date upon which they are called upon to appear before the court, and

*b.* To cause the supplementary jurors upon such panels to be summoned at least forty-eight hours before the date upon which they are obliged to appear;

3. In the case of article 2653 to cause them to be summoned in accordance with clause *b* of paragraph 2 of this article. 47 V., c. 11, s. 5.

**2661.** A fee of thirty cents is allowed for each service upon a juror, and twenty cents per mile necessarily travelled to effect such service, but nothing is allowed for returning.

Such fees shall be paid by the sheriff out of the building and jury fund. 46 V., c. 16, s. 43; 49-50 V., c. 10, s. 1.

**2662.** In every summons served upon any juror, requiring him to attend and serve as a juror, a notice shall be inserted informing such juror that, if he intend to claim exemption from serving as such juror, under articles 2620 and 2621, he must, within three juridical days from the service of such summons, furnish the sheriff with an affidavit in writing, sworn to before a justice of the peace, or before the sheriff, or his deputy, establishing the ground of his claim to exemption; and if such juror neglect so to do, he shall not be allowed the benefit of such exemption. 46 V., c. 16, s. 44.

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**2663.** No juror shall be exempt for any other reasons than those set forth in articles 2620 and 2621; nevertheless the court or judge may, if convinced that the public interest admits of such exemption being allowed, and on motion in writing, supported by an affidavit setting forth the ground of the exemption and the reason why it was not claimed within the above mentioned delay, allow it.

Likewise, when two or more members of a commercial partnership have been summoned to serve as jurors before any court of justice, the court or presiding judge may, in its discretion, exempt all the members of such partnership except one, although no notice has been given of an intention to claim the benefit of exemption. 46 V., c. 16, s. 45.

**2664.** Immediately upon receipt of such affidavits, produced in support of claims for exemption, the sheriff shall add to the panel a further number of jurors, equal to the number of those who have furnished such affidavits, and those on the panels who have not been served with a summons, by reason of death, absence or other sufficient cause; which names shall be taken from the jury lists in the manner hereinabove established.

The sheriff shall proceed to summon such additional jurors in the same manner as if they had been upon the panel in the first instance. 46 V., c. 16, s. 46.

**2665.** All the provisions hereinbefore contained, as to notice to jurors respecting intended claims for exemptions, the mode of claiming exemption, the invalidity of a claim for exemption without previous affidavit, and the summoning of additional jurors in the place of those not served with a summons, or who have furnished an affidavit in support of their claim for exemption, shall apply to the jurors so added to the panel, in the same manner and to the same extent as to the jurors placed on the panel in the first instance. 46 V., c. 16, s. 47.

**2666.** The sheriff shall, before returning the panel before the court, state opposite the name of each juror who has furnished an affidavit, the fact that such affidavit has been furnished and the reason given by such juror in support of his claim. 46 V., c. 16, s. 48.

**2667.** The sheriff shall return, before the court, the panel, as first prepared by him, together with additions made to such panel; and shall also report his proceedings, including the certificates of service upon or attempts at serving those persons whose names appear in such panel and in such additions. 46 V., c. 16, s. 49.

**2668.** If, in consequence of the disallowance of claims for exemption, there remain more than sixty jurors in attendance upon the court, the surplus number of jurors may be discharged by the court; such surplus number being taken from amongst the names added to the panel first made, commencing at the end

thereof, unless specially otherwise ordered by the court; but such discharged jurors shall be considered as having served at the term of the court for which they were summoned. 46 V., c. 16, s. 50.

**2669.** If it appear, either previous to or during any term of the Court of Queen's Bench or any court of general sessions of the peace, that the number of cases to be tried will require a second panel of jurors, the court or any judge thereof may, on application of the representative of the Crown, order the sheriff to summon a second panel of petit jurors, in the same manner and containing the same number as the first panel.

Such second panel or petit jurors shall, for the Court of Queen's Bench, be summoned to attend on the twelfth juridical day of the term thereof, and for the court of general sessions of the peace, on the tenth juridical day of the session thereof.

Such second panel of petit jurors shall attend and serve for the residue of every such term or session, unless the court has ordered a third panel, in which case they shall not serve for more than eleven days for the Court of Queen's Bench, or nine days for the court of general sessions of the peace.

When a second panel of jurors is summoned, as aforesaid, for any term or session, the jurors on the first panel shall be discharged on the eleventh juridical day of such term, or on the ninth juridical day of such session, as the case may be. 46 V., c. 16, s. 51.

**2670.** Whenever the court is of opinion that the business of the term or session is likely to necessitate the attendance of the jurors summoned on the second panel, for a period of more than fourteen juridical days in the Court of Queen's Bench, or for more than eleven juridical days in the court of general sessions of the peace, such court may, at the instance of the representative of the Crown, specially authorized by the Attorney-General, order the sheriff to summon a third panel, in the same manner, and containing the same number of jurors, as the second panel; and the jurors, summoned on such third panel, shall serve during the remainder of the term or session.

Such third panel of petit jurors shall, for the Court of Queen's Bench, be summoned for the twenty-third juridical day of the term, and for the court of general sessions of the peace, for the nineteenth juridical day of the session. 46 V., c. 16, s. 52.

### § 2.—Summoning of Jurors in Civil Cases.

**2671.** Summons and other proceedings relative to jurors in civil cases are governed by articles 357 and following of the Code of Civil Procedure. 46 V., c. 16, s. 53.

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## SECTION VI.

## ALLOWANCE TO JURORS.

**2672.** (*Replaced by 53 V., c. 34 s. 16.*) Every juror summoned to serve as a grand or petit juror, whose domicile is outside of the limits of the municipality where the court is held, shall receive an allowance of one dollar and fifty cents for each day he is necessarily absent from his place of residence to serve before the court, and one dollar when his domicile is within the limits of such municipality.

The allowance is paid by the sheriff on the certificate of the clerk of the Crown, as the case may be.

The counties of Gaspé and Bonaventure shall each be considered as one district for the purposes of this article.

## SECTION VII.

## PENALTIES.

**2673.** Every sheriff, prothonotary, clerk of the peace, or clerk of the Crown, who wilfully or negligently offends against any of the provisions of this chapter, shall, for the first offence, incur a penalty not exceeding sixty dollars, nor less than forty dollars; for the second offence, a penalty not exceeding eighty dollars, nor less than sixty dollars; and for the third, or any subsequent offence, a penalty not exceeding two hundred dollars, nor less than one hundred dollars. 46 V., c. 16, s. 55.

**2674.** Every person summoned to serve as a juror under the authority of this chapter, who refuses or neglects to appear in obedience to the summons, without assigning some lawful cause or excuse therefor, in addition to not being entitled to be paid, shall, further, incur a fine for each offence not exceeding five dollars, nor exceeding in the aggregate fifty dollars for all of such offences committed during the same term of any court.

Such penalties shall be imposed, sitting the court. 46 V., c. 16, s. 56.

**2675.** Every clerk or secretary-treasurer of any municipality, who shall, after a notice of six days, neglect to transmit to the sheriff any extract or supplement required of him under this chapter, or who shall fail to comply with the other provisions of this chapter, shall incur a penalty of twenty-dollars and a further penalty of five dollars for every day, subsequent to the service upon him of any information or complaint for such neglect, during which he shall continue to be in default. 46 V., c. 16, s. 57: 47 V., c. 11, s. 6.

**2676.** The penalties hereby imposed shall belong to the building and jury fund for the district in which the offence occurred. Such penalties shall be levied, on a rule or order of the court,

by the high constable or a bailiff of the district, upon the goods and chattels of the person fined, in the manner prescribed by the Code of Civil Procedure for the seizure and sale of moveable effects. 46 V., c. 16, s. 58.

**2677.** Upon the return of the high constable or of the bailiff entrusted with the execution of the rule or order, to the effect that the person, against whom he has proceeded under articles 2674, 2675 and 2676, has no goods and chattels, or that his goods and chattels are insufficient to satisfy such seizure, a warrant of arrest may issue against such person, who shall thereupon be imprisoned for not more than fifteen days in the discretion of the court; and the court may, at any time, reduce, mitigate, or remit the penalty or terminate the imprisonment. 46 V., c. 16, s. 59.



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# ANALYTICAL INDEX

## OF THE MUNICIPAL CODE

### OF THE PROVINCE OF QUEBEC.

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	ARTICLES.
ABSENT, definition of.....	19, § 20
ABSENTEES, public notices are applicable to and binding upon .....	240
ABUSES prejudicial to agriculture, the local council may by by-law, prevent or cause to be done away with, all unprovided for by law .....	559
ACQUISITION of property by the corporation.....	4, 485 to 488 (460)
ACTS: performed by a person illegally filling the office of member of the council are not null by reason thereof .....	120
“ performed by a municipal officer, holding office illegally, are not invalid by reason thereof.....	188
“ are binding until they have been annulled.....	5 (461)
“ are not null and void on account of omission or of insufficiency in the designation of the qualities of the parties to such acts, or on account of any error in, or insufficiency of, the description of the corporation or municipality, unless some surprise or injustice result therefrom.....	15
“ of agreement.....	84, 888
“ of apportionment.— <i>See Procès-verbaux.</i>	
“ in operation when the code comes into force are continued.....	5
ACTIONS (meritorious) may be rewarded by the local council by means of a by-law or resolution to that effect.....	589 (460)
ADVOCATES, practising advocates are exempt from municipal offices.....	209
“ their annual income is taxable property.....	710
ADJOURNMENT of the sessions, or of the council.....	138
“ of the sessions or of the council, for want of a quorum; notice required .....	139
ADMINISTRATION of the moneys of the corporation.....	499
AFFIRMATION under oath, takes the place of the certificate of service of a special notice, if such notice is verbal.	221

AFFIRMATION under oath, when required .....	221
"    "    " <i>See</i> OATH.	
AGENT, may be appointed by any person domiciled without the limits of a municipality, represents its prin- cipal for all municipal purposes .....	222
"    special notices are served on him .....	226, 227
AGRICULTURE (aid to), is given in the municipality, by means of a by-law or resolution .....	484, (460)
"    abuses prejudicial to .....	558
ALLEGATIONS, unnecessary, when they do not affect the validity of an act .....	14
AMENDMENTS, to the special superintendent's report. ....	58
"    of by-laws or resolutions, mentioned must be made thereof .....	157
"    to procès-verbaux .....	810, 810a
"    to the procedure on an appeal to the circuit court...	1072
AMUSEMENTS (cruel), may be prevented by by-law of the local council .....	602
ANCHORAGE.— <i>See</i> OBSTRUCTIONS.	
ANIMALS.— <i>See</i> WILD ANIMALS.	
ANIMALS FOUND STRAYING may be impounded .....	423
"    "    give rise to right of action for penalty and damages although the animals be not impounded .....	444
"    impounded must be fed and taken care of .....	429
"    penalty for neglecting so to do .....	429
"    special notice must be given to the owner if he is known and domiciled in the municipality .....	430
"    penalty for neglect .....	430
"    public notice containing their description and offering them for sale in the event of not being reclaimed...	431
"    penalty for neglect to give such notice .....	431
"    must be delivered up on payment of the amount due	432
"    penalty for refusing to give them up .....	432
"    sale by auction .....	433, 434
"    the price of adjudication to be instantly paid .....	435
"    manner in which the price of adjudication is em- ployed .....	436
"    if the sale does not realize a sufficient sum the owner is liable to make up the balance .....	437
"    if the owner does not reside in the municipality, or has not a place of business therein, he may within a month reclaim his animal sold at auc- tion .....	438
"    penalty for taking away, without permission, any animal impounded .....	439
"    schedule of penalties imposed on the owners thereof.	440
"    such penalties may be paid before suit is brought.	441

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"

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"

## ANIMALS FOUND STRAYING :—

" in cases of contestation, manner of determining the damages .....	442
" damages are not due if occasioned by absence or defect of the complainant's boundary fences....	443
" the penalty and damages are due although they have not been impounded .....	444
" the occupant of any land is answerable for any animal he receives to pasture thereon.....	445
" persons in possession of, are responsible as owners.	446
" an owner or occupant of any land or a member of his family may impound them on his own premises .....	447
" in any such case the sale is made by the pound-keeper or by the rural inspector.. . . .	447
" to whom the penalties, recovered from the owners of animals found straying, belong .....	448
" See POUND-KEEPERS.	

ANNEXATION of a territory to an adjoining local municipality.....	27, 30, 31, 33, 35, 36, 37, 41, 74
" of a town or village municipality to an adjoining local municipality .....	74 to 77
" of a territory to a town or village municipality.....	72, 73
" of a territory situated in a township, to a parish municipality, by the county council .....	33
" See MUNICIPALITY, TERRITORY.	

ANNUAL STATEMENT filed before the county council by the Secretary-Treasurer .....	941a
---	------

ANNULMENT of <i>procès-verbaux</i> , rolls, resolutions, and other orders of the council .....	5, 100
" of by-laws.....	5, 698 to 708
" " proceedings to be taken for.....	698 to 703
" of the by-law ceases to be in force from the date of the judgment .....	704
" " the corporation is alone responsible for any damages resulting from the putting into force of such by-law .....	706, 707
" " the right of demanding the annulment is prescribed by three months.....	708

APOTHECARIES(practising),are exempt from municipal offices	209
--	-----

APPEAL TO THE CIRCUIT COURT, from judgments of justices of the peace.....	1061
" from a decision of the county council, respecting a <i>procès-verbal</i> or act of apportionment, sitting otherwise than in appeal.....	1061
" from any decision of a board of delegates.....	1062
" notice and security required from parties desiring to appeal.....	1064, 1065

## APPEAL TO THE CIRCUIT COURT :—

" is brought by a writ signed by the clerk.....	1066
" the matter set forth in the writ.....	1066
" when and on whom must a copy of the writ be served..	1067
" after such service the record must be transmitted to the court with a certificate. ....	1068
" the execution of the judgment is suspended if the writ is served within the prescribed delay... ..	1069
" when the writ of appeal must be returned.....	1070
" on the day of the return the appellant must produce a petition, setting forth his reasons of appeal, together with the returns of service.....	1070
" the allegations which the petition must contain.....	1070
" is decided in a summary manner.....	1071
" no fresh witnesses can be heard unless the appeal is from the decision of a county council or board of delegates .....	1071
" when the judgment must be set aside.....	1072
" if the objections do not effect the merits of the case, the court may amend the procedure .....	1072
" if the judgment is confirmed the record is returned to the court below, with a copy of the judgment in appeal and a certificate for the costs.....	1073
" under the authority of which court are the costs levied .....	1073, 1074
" if the judgment is modified or reversed the record remains in the archives of the circuit court.....	1074
" when the appeal is deemed abandoned.....	1075
" the manner in which the surties are bound to satisfy the judgment ....	1076
" no appeal lies from a judgment of a judge of the superior court or of a district magistrate .....	1077
" decisions susceptible of appeal under the code, and the decisions of district magistrates cannot be removed by <i>certiorari</i> .....	1078
" documents produced by the county council or by the board of delegates, are returned to them with a copy of the judgment .....	1079
APPEAL TO THE COUNTY COUNCIL, what by-laws are subject to.....	925
" lies from any <i>procès-verbal</i> homologated by a rural council .....	926
" lies from any amendment made by the rural council to an act of apportionment.....	926
" lies from any amendment made by the rural council to the valuation roll prepared by the valuers....	927
" lies also when the rural council neglects to take cognizances of any written complaint.....	927

## APPEAL TO

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## APPEAL TO THE COUNTY COUNCIL :—

" may be brought by any person having an interest therein .....	928
" is brought by means of a summary petition .....	923
" such petition must be filed in the office of the county council within the prescribed delays .....	929
" a copy must be served at the office of the local council.	929
" the secretary must forthwith transmit to the office of the county council all the documents relating thereto .....	936
" these documents are returned after the decision of the county council or after the delay within which the decision must be given .....	939
" the petition must be taken into consideration by the county council within thirty days after the filing thereof .....	930
" when a special session of the county council must be convened for such purpose by the warden or the secretary-treasurer .....	930
" if there is not a quorum at the special session the petition may be taken into consideration at the next general session .....	931
" the county council cannot take the appeal ... consideration except after a public notice .....	931a
" decision of the council ; taxation of costs .....	932
" costs recoverable in the same manner as the penalties.	932
" when the appeal is held to be quashed .....	933
" a copy of the decision of the county council or a certificate that no action was taken in the matter must be transmitted to the office of the local council ...	934
" a decision of the county council, amending a <i>procès-verbal</i> , must be published .....	935
APPLICATION of the municipal code .....	1
" of by-laws, resolutions, orders, rolls or municipal acts made before the annexation of any territory or its erection into a new municipality ... 44, 66, 70, 73, 77, 90	
APPOINTMENT, meaning of the word .....	14 § 16
" of the head of the council and its officers may be made by the council after the lapse of the prescribed delay .....	101
" of the officers of the council by the lieutenant-governor .....	177 to 181
" the council must be apprised of any such appointment and the secretary-treasurer must notify the person appointed .....	179
" any such appointment may be revoked by the lieutenant-governor and another officer appointed instead .....	181

## APPOINTMENT. :—

- " the secretary-treasurer is not appointed by the lieutenant-governor..... 177
- " of officers of the council by the council, how made. 185
- " the officer appointed must be notified thereof..... 185
- " of warden by the council; contestation of..... 253
- " of local councillors is made by the lieutenant-governor, in absence of an election... 326 to 229
- " of mayor..... 330 to 336
- " " " by the lieutenant-governor..... 332
- " of members of the local council, contestation of. 346 to 364

APPORTIONMENT, *See* ACTS OF APPORTIONMENT.APPRENTICE, *See* SERVANT.

- APPROVAL of by-laws by municipal electors..... 671 to 686
  - " resolution of the council ordering that a public meeting of the electors be held ..... 671
  - " the place at which such meeting is held..... 672 to 674
  - " delay within which such meeting must be held.... 673
  - " publication of the by-law and of the notice convening the meeting..... 675, 676
  - " the person by whom the meeting is presided over, and the manner in which it is held..... 677 to 683
  - " the person presiding over the meeting does not vote thereat..... 679
  - " special provisions for the holding of polls in the Magdalen Islands..... 1085
  - " when electors who are the owners of real estate are alone entitled to vote..... 497
  - " certificate establishing the number of votes given for or against the by-law..... 682 to 684
  - " when the council votes..... 685
  - " the certificate of the approval or disapproval of the by-law is submitted to the council..... 686
  - " the council may examine the poll books..... 686
  - " of by-laws by the lieutenant-governor in council, 687 to 690
  - " the lieutenant-governor may exact from the council all information and documents respecting the by-law..... 688
  - " the lieutenant-governor must not approve of the by-law until he has satisfactory proof that the formalities required have been observed..... 689
  - " *See* BY-LAWS.
- AQUEDUCTS may be established and kept in repair by the town or village council by means of a by-law... 637 to 639
- " companies for supplying water may receive aid from a town or village council by means of a by-law ..... 640
- ARBITRATION..... 419, 640a

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ARCHIVES OF THE COUNCIL are in the keeping of the secretary-treasurer .....	156
“ are open for inspection and examination .....	164
“ copies of extracts are given on demand and on payment of the fees .....	165
“ when withheld, proceedings for their recovery.....	193, 194
ARREARS OF MUNICIPAL TAXES, statement of, must be made every year in November by the local secretary-treasurer.....	371
“ such statement must be submitted to, and approved of by the council .....	372
“ an extract of such statement must be transmitted to the office of the county council .....	373
ARREST OF CRIMINALS (rewards for the), may be given by by-law or resolution of the council.....	506 (460)
ARTS (aid to), is given in the municipality by means of a by-law or resolution of the council .....	484 (460)
ASHES, how to be kept. See FIRES.	
ASSISTANCE given to constructions, improvements and maintenance of public works not belonging to the corporation .....	477
“ agriculture, colonisation, horticulture, arts, sciences .....	484
“ by-laws to that effect .....	484, 974
ASSISTANT SECRETARY-TREASURER, appointed by the secretary-treasurer.....	145
“ performs all the duties of the office of secretary-treasurer .....	145
“ in case of vacancy in the office of secretary-treasurer, continues to perform the duties .....	145
“ takes an oath of office.....	145
“ may be removed by the secretary-treasurer.....	145
“ acts under the responsibility of the secretary-treasurer and of the sureties of such secretary-treasurer .....	145
“ is an officer of every court.....	172
ATTENDANCE at the sitting of the council or of the committees, may be ordered .....	465
AUCTION SALE of lands for taxes.....	998
AUDITOR of provincial accounts must compile annually, in the month of June, a statement of the municipal corporations which are indebted .....	979
“ must submit such statement to the legislature, within fifteen days of the opening of the session.	979
AUDITORS (municipal), are appointed by the council in the month of March of each year.....	173
“ they take an oath of office. ....	174
“ the period during which they remain in office .....	174
“ must know how to read and write.....	175

## AUDITORS :—

- “ when they are to make their examination and report ..... 176
- “ any person domiciled without the municipality may be appointed to the office ..... 204
- “ *See* OFFICERS (municipal).
- BALIZES must be set up in fords to point out the crossing... 777
  - “ on winter roads, their height and the manner in which they are placed..... 832, 835
  - “ penalty for setting them up on any road after another has been substituted therefor..... 834
- BALLOT, members of the council are not permitted to vote by ..... 137
- BANKERS may, by by-law of the local council, be compelled to take out a trading license ..... 582
- BARK, *See* WOOD.
- BARNs, *See* FIRES.
  - “ cannot be pulled down or injured by any county or rural council without the written consent of the owner ..... 904
- BATHING, in the open air or in public waters in certain localities may be regulated by the local council ... 605
- BISHOP's palaces and their dependencies are not taxable property ..... 712
  - “ no person can lay a road down through any such palace or its dependencies without the written consent of the owner..... 905
- BOARD, *See* COUNCIL.
- BOARD OF DELEGATES, how composed ..... 266
  - “ *See* DELEGATES, (county).
  - “ time of sitting..... 267
  - “ place of sitting ..... 268, 269
  - “ meeting of the board, how and by whom convened ..... 269
  - “ notice of the convocation may be given by mail.. 269, (260)
  - “ circumstances under which any person interested may have a meeting there called ..... 270
  - “ the secretary ; his duties ..... 271
  - “ three form a quorum..... 273
  - “ by whom the meeting is presided over..... 273
  - “ manner in which contested questions are decided.. 274
  - “ manner of annulling its documents, orders and proceedings ..... 275, (100)
  - “ its documents, orders and proceedings are binding until they have been annulled..... 275, (100, 461)
  - “ publication of the documents, orders and proceedings thereof, how made when required ..... 275, (102)
  - “ hearing of the parties and their witnesses ..... 725, (97)

BOARD OF  
“ pa“ repre  
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w“ may,  
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“ *See* APPBOARD OF HE  
local“ the men  
undeBONAVENTURE,  
FebrBOND, *See* DEEBOOKS, (poll),  
BREAD, may be  
quali

## BOARD OF DELEGATES :—

and	176	" parties producing or lodging documents are entitled to a receipt; penalty in case of refusal. ....	275, (103)
may	204	" represents the county corporations under whose joint control are municipal roads, bridges and water courses .....	757, 858, 878
ing...	777	" may, by resolution, cause private roads under their management to be closed .....	749
her in	832, 835	" may, by resolution, or in a <i>procès-verbal</i> , declare that any local road, bridge, or water course be a county work under its management, or that any road, bridge or water-course, of one county only, be a county work under its management, or that any road, bridge, or water-course under its management, be a local work or that of one county only .....	759, 762, 858, 878
after	834	" such a declaration must be preceded by a notice, and be published immediately after the passing thereof .....	761, 858, 878
o vote	137	" homologation of <i>procès-verbaux</i> .....	805 to 807
pelled	582	" See ROADS, WATER COURSES, BRIDGES, PROCÈS-VERBAUX.	
county	904	" cannot direct the demolition of any dam, dyke or flood-gate of any factory because it obstructs a water-course .....	880
sent of	605	" approves of any act of agreement determining the work to be done on a water-course under its management .....	888
ain lo-	712	" contracts for public works, how awarded for works under its control .....	897 and following
ncil ...	905	" may order the road inspector to superintend the execution of the work .....	901
axable	266	" expropriation for municipal purposes, how effected when the works which require it are under its control .....	924
such	267	" every decision thereof may be appealed from to the circuit court within ten days .....	1062
written	268, 269	" See APPEAL TO THE CIRCUIT COURT.	
BOARD OF HEALTH, may be established by by-law of the local council .....	269		607
the members are appointed by the local council, under a by-law .....	269, (260)		607
rested	270	BOAVENTURE, the valuation roll in this county is made in February and March. ....	712
271	272	BOND, See DEBENTURE.	
273	274	BOOKS, (poll), See ELECTION OF LOCAL COUNCILLORS.	
275, (100)	276	BREAD, may be regulated by the local council as to weight, quality and marks .....	579

## BREAD:—

" sold in contravention of by-laws may be confiscated in virtue of a by-law ..... 581

BRIDGES, what, form part of the roads on which they are situated ..... 773

" may be acquired by the council by by-law or resolution ..... 485 (460)

" (municipal) meaning of the term ..... 19 & 26 85

" are local or county ..... 851, 852

" which are local ..... 851, 852

" " " county ..... 851, 852

" must have hand rails at each side ..... 853

" their width ..... 853, 858, (769)

" how must they be built ..... 853

" " " " kept in repair ..... 854

" manner of crossing them ..... 859

" penalty for driving too fast on or for injuring them ..... 859

" under the control of which local corporation are they ..... 858, (757)

" local, may be declared county bridges by the county council or the board of delegates. 858, (748, 759)

" county, may be declared local bridges by the same authority ..... 858, (758, 759)

" of several counties may be declared the bridges of one county only, by the board of delegates. 858 (759)

" in whose charge are the works to, after such declarations ..... 858, (760)

" such declarations must be preceded by a public notice and must be published after the passing thereof ..... 858, (761)

" such declaration may be made with regard to any bridge to be built ..... 858, (762)

" such declarations are made by resolution or in a *procès-verbal* ..... 858, 758, (759)

" are under the superintendence and control of the road inspector unless a special officer has been appointed ..... 376, 858, 788

" such special officer has the same powers and obligations as the road inspector ..... 858, 788

" nuisances and obstructions thereon must be removed ..... 386

" what is deemed a nuisance or obstruction... 387, 388, 389

" what measures for safety must be taken, under a penalty of fine and damages, during the construction of any authorized work thereon..... 390

" penalty for causing nuisances thereon..... 391

" encroachments on, must be reported to the council by the road inspector ..... 391

## BRIDGES:—

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## BRIDGES :—

- “ must be inspected by the road inspector between the 1st and 15th of June and October every year, and whenever the council or the mayor deems it necessary ..... 404
- “ when broken or dangerous, the mayor may, in case of urgent necessity, repair the same, or make a safe temporary bridge ..... 405
- “ the council may, by by-law or resolution, authorize the execution of dangerous works on bridges on certain conditions..... 476 (460)
- “ the council may assist the building or repairing of a bridge in any other municipality..... 477 (460)
- “ the county council may, by by-law, place toll bars on its bridges, and levy tolls..... 520
- “ the local council may, by by-law or resolution, order the construction and maintenance of any bridge ..... 526 (460)
- “ the local council may, by by-law or resolution, order any bridge to be widened or altered..... 527 (460)
- “ such works may be also ordered by *procès-verbal* homologated by the council or by the board of delegates ..... 53
- “ the local council may by by-law, place all or any bridge situated in the municipality at the costs and charges of the corporation..... 535, 857
- “ when such by-law comes into force..... 535
- “ such by-law cannot be repealed without the concurrence of two-thirds of the members of the council ..... 540
- “ effects of such by-law with respect to rate-payers, to the corporation and to any act relating to the works thereon..... 536 to 539
- “ the local council may, by by-law, place turnpikes on its bridges and levy tolls..... 542
- “ the works for which rate-payers are liable may be regulated, determined and apportioned by by-law of the council..... 528, 855
- “ or are regulated and determined by a *procès-verbal*..... 528, 855
- “ See *procès-verbal*..... 528, 855
- “ in the absence of by-laws or *procès-verbal*, by whom are the works done ..... 856
- “ in which case works of construction or improvement are done by contract..... 856 (827)
- “ in such case repairs are done by contributions levied by the road inspector by means of an act of apportionment approved of by the council 856, (827)

## BRIDGES:—

- " such works of repair are given out to the lowest tender by the road inspector in the months of April and October ..... 856, (828)
- " unoccupied crown lands are not liable for works thereon ..... 858, (780)
- " the occupants of crown lands are liable ..... 858, (780)
- " the occupants of any lot of land divided after the passing of an act regulating such works, are jointly and severally liable therefor ..... 858, (781)
- " ratepayers cannot be compelled to perform work in a neighbouring local municipality, except on a county bridge ..... 858, (782)
- " works on municipal bridges, how performed ..... 856, 858, (786, 787)
- " works in common, by whom and how ordered and superintended ..... 382 to 384
- " when are the persons liable for work on bridges, in default to perform such work ..... 858, (789)
- " the contractor is liable to the same obligations and penalties as the persons whose work he has contracted to perform and he is their surety ..... 858, (790)
- " the non-execution of work by those in default renders them liable for all damages and to a penalty ..... 858, (791)
- " in such case the work may be done by the road inspector ..... 399
- " or by the council on the report of such officer... 399 to 400
- " and the value with 20 per cent in addition thereto, is recoverable by the officer for the council that performed the work ..... 398, 401 to 402
- " the road inspector cannot without authorization do work or furnish materials for any sum exceeding five dollars in any one year, without giving previous notice to the persons in default.. 399
- " the road inspector must, whenever he has done any work or furnished any materials without authorization, immediately notify the persons in default ..... 399
- " exception in favor of certain companies as to such works ..... 21, 22
- " See COMPANIES, (iron and wooden railway.)
- " the corporation must keep municipal bridges in the state required by law and the acts respecting them, under penalty of a fine and damages, saving their recourse ..... 858 (20)
- " pay-bridges may be acquired by the council by by-law or resolution ..... 485 (46)

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## BRIDGES :—

“ pay-bridges may be established by by-law of the county council.....	520
“ pay-bridges may be established by by-law of the local council.....	542
BROKERS may, by by-law of the local council, be obliged to take out a trading license.....	582
BUCKETS, (fire) See FIRES.	
BROME, (county of) the public works on the roads and bridges are executed at the expense of the local corporations .....	1080
BUILDINGS are included in the words “ real estate ” or “ land ” .....	19 & 24
“ (public) of the Province may be acquired by the council by means of a by-law or resolution.....	487 (460)
“ in ruins; the local council may, by by-law, cause them to be thrown down.....	642
“ (wooden) their erection may be prohibited by by-law of the town or village council.....	647
“ See FIRES.	
“ no county or rural council can pull down or damage any buildings without the written consent of the owner .....	904
“ may, in order to arrest the progress of a fire, be pulled down or destroyed in any town or village municipality, by by-law or by order of the mayor.....	665
“ See WALLS.	
BURIAL-GROUNDS, the local council may, by by-law, prevent their desecration.....	597
“ may be enclosed at the expense of the local corporation in virtue of a by-law.....	613
“ and their dependencies are not taxable property....	712
“ and their dependencies; no council can cause a road to be run through them, without the consent of the owner.....	905
BY-LAWS, resolutions, <i>procès-verbaux</i> , or acts of apportionment, in force at the promulgation of the code, continue to have effect.....	5
“ may be annulled by the magistrate’s court or by the circuit court.....	5 (100)
“ (of the council) heretofore existing, are continued with certain exceptions.....	5
“ must not contain any provisions inconsistent with this code or any other law.....	453
“ when do they come into force and effect.....	454
“ must be promulgated fifteen days before coming into force.....	454, 455, 456

## BY-LAWS :

- " the original must be signed by the head or the president of the council and by the secretary-treasurer ..... 457
- " the original must, if the by-law has been approved of by the electors or by the lieutenant-governor, be accompanied by a certificate thereof..... 457
- " of the county council, a copy thereof must be transmitted to the office of each local municipality in which they are in force..... 458
- " several matters may be provided for in one and the same by-law..... 459
- " are binding until they have been annulled..... 5,461
- " time during which they remain in force..... 462
- " approved of by the electors or the lieutenant-governor, can only be amended or annulled by a by-law approved of in the same manner.. ..... 463
- " whenever a by-law has been amended or annulled mention must be made thereof on the margin of the register of proceedings, opposite such by-law ..... 157
- " within the jurisdiction of all municipal councils. 464 to 509
- " within the special jurisdiction of county councils..... 510 to 524
- " within the special jurisdiction of local councils. 525 to 615
- " within the special jurisdiction of town or village councils..... 616 to 670
- " the council may order that by-laws be read two or three times before being passed..... 468
- " approval of by municipal electors, how given when required..... 627 to 686
- " which must be approved of by the municipal electors..... 479, 480, 492, 493, 521
- " approval of the lieutenant-governor in council.. 687 to 690
- " which must be approved of by the lieutenant-governor in council... 479, 480, 492, 493, 520, 521, 542, 553
- " which must be approved of by the council of another municipality..... 553, 762a
- " when and how promulgated..... 691 to 696
- " the neglect to read them does not prevent their coming into force..... 693
- " penalty for neglect by the person whose duty it is to read the same..... 693
- " may be published in newspapers..... 694
- " when the promulgation is deemed to have been sufficiently made..... 697
- " annulment thereof, by the magistrate's court or the circuit court..... 698 to 708

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## BY-LAWS—

" which must be approved of by municipal electors and by the lieutenant-governor; must be submitted in the first instance to the electors.....	690
" an appeal lies to the county council from by-laws of rural councils .....	925
" except those which simply repeal other by-laws. ....	925
" except those which must be approved of by the municipal electors.....	925
" except those respecting the sale of intoxicating liquor.....	571, 925
BY-ROADS, local or county, are included in the word "road" .....	19 & 27
" their keeping in repairs .....	826
" See ROADS.	
CANALS may be acquired by the council from the government, by by-law or resolution.....	487 (460)
" no council can injure them or divert the course of the water therefrom without the consent in writing of the owner .....	905
CANDIDATE, See ELECTIONS.	
CANDLES, See FACTORIES.	
CARRIER (common) See CARTERS.	
CARTERS may be compelled to take out a license, by by-law of the local council .....	582
" licensed in one municipality, under a by-law, may go into any other municipality without paying a license therein .....	583
" in the absence of a by-law, may obtain a permit from the council, equivalent to a license.....	583
CASTING VOTE When the chief of the council is to give his casting vote .....	134
CAVITIES, municipal road must by kept free from .....	788
CELADINE, See NOXIOUS WEEDS.	
CELLARS, the town or village council may regulate the manner in which they are to be made and drained.....	646
" The same council may, by by-law, cause them to be cleansed and purified .....	651
CEMETERY, See BURIAL-GROUND.	
CENSUS, a special—is made by the county council, on a demand to that effect, in any territory united or annexed to another territory .....	47
" the cost thereof, when repaid to the council.....	48
" the council may, by by-law or resolution, cause a census of the municipality to be taken.....	504 (460)
CERTIFICATE to be given by any person administering an oath .....	6
" of publication or of service of a note .....	219, 220

## CERTIFICATE :—

- " of the head of the council and of the secretary-treasurer, attesting the approval of a by-law by the municipal electors and the lieutenant-governor in council, must accompany the original of such by-law..... 457
- " approved by the local council, to obtain a license to keep a house of public entertainment, may be taxed under a by-law of the local council..... 615
- " establishing the approval or disapproval of the municipal electors must be submitted to the council..... 686
- " of valuers rendering an award in any expropriation case..... 913, 917, 918
- " of the secretary-treasurer of the county establishing that no decision in appeal was given by the county council within the required time, must be transmitted to the office of the local council... 934
- " of the secretary-treasurer of the county establishing the sale of any land for the payment of taxes..... 1004

CERTIORARI, *See* APPEAL TO THE CIRCUIT COURT, JUDGES, DISTRICT MAGISTRATES

- CHANGE OF LIMITS of a municipality, its effect upon the obligations and rights of ratepayers ..... 78, to 92
- " taxable property comprised within the territory which has been detached, remains liable for the debts..... 78
  - " which council is authorized and obliged to settle the debts..... 79
  - " place at which suits for the settlement and payment of such debts may be brought..... 80
  - " basis upon which the debts are divided..... 81
  - " the council which settles the debts may collect taxes levied for their payment or levy fresh taxes..... 82, 83
  - " settlement of debts by mutual agreement..... 84, 85
  - " property to be divided..... 86
  - " property which remains in the possession of the council bound to settle the joint liabilities..... 87
  - " arrears of taxes and other assets; by whom collected..... 88
  - " such arrears and assets may be made over by deed of agreement..... 89
  - " rate-payers are not liable for work on local roads and bridges, not situated in their municipality, under any municipal act in force at the time of the separation..... 90

CHANGE  
"

CHICORY,  
CHICOUT

CHIEF PL  
" t

" m

" c

" th

CHILDREN,

CHIMNEYS  
" th

" th

CHIMNEY-SW

CHURCHES,

CIGARS, *See*  
CIRCUSES ma

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CITATION OF  
CLEARANCES

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CLERGYMEN a

COAL-OIL, *See*

COCK-FIGHTS

CUL

# MUNICIPAL CODE.

451

## CHANGE OF LIMITS :—

" council interested are entitled to obtain copies of all documents relating to any territory separated from or annexed to or erected into a municipality	93
CHICORY, <i>See</i> NOXIOUS WEEDS.	
CHICOUTIMI (county of), exceptional provisions respecting the powers of certain local municipalities therein.....	1081
CHIEF PLACE, meaning of the term.....	19 2 2
" the county council may fix the chief place by by-law.....	511
" may be changed by by-law passed with the concurrence of two-thirds of the members of the council.....	511
" circumstances under which it can be changed by the legislature only.....	511
" the county council holds its sessions thereat.....	258
CHILDREN, the local council may, by by-law, prevent the giving of liquor to them without the consent of parents, &c.....	606
CHIMNEYS in ruins. <i>See</i> WALLS.	
" the town or village council may, by by-law, prescribe the manner of building and making use of them.....	651
" the town or village council may, by by-law, compel the owners of chimneys to have them swept and prescribe the manner of so doing.....	659
CHIMNEY-SWEEPS, the town or village council may, by by-law, provide for their appointment.....	659
CHURCHES, the local council may, by by-law, prevent horses from being driven at a rate faster than an ordinary trot in their vicinity.....	548
CIGARS, <i>See</i> FIRES.	
CIRCUSES may be regulated and taxed by the local council.	599
" manner of levying such tax.....	590
CITATION of this code, how made.....	19, p. 33, 1087
CLEARANCES are ordered by the rural inspector, on requisition after giving special notice to all parties interested, and examining the locality.....	417
" their extent.....	417
" exception in favor of certain trees.....	417
" penalty incurred by any person refusing to make clearances.....	418
" damages for neglect; how established.....	419
CLERGYMEN are disqualified for municipal offices.....	203
COAL-OIL, <i>See</i> DELETERIOUS MATTER.	
COCK-FIGHTS may be prevented by by-law of the local council.....	602

CODE (municipal) how cited .....	19, p. 33, 1087
COLONISATION (aid to) may be given by by-law or resolution of the council .....	484 (460)
COLLECTION of taxes. <i>See</i> TAXES (municipal).	954
COMMISSIONER of Agriculture, &c., must annex to his report, a compiled statement of municipal reports on the debts and statistics .....	168b
COMMITTEES of the council may be appointed .....	96
" their reports must be signed by their chairman or by a majority of the members .....	96
" their reports must be approved of by the council .....	96
" hear parties and their witnesses .....	97
" may take communication of written proof .....	98
" may summon witnesses residing in the municipality .....	98
" may examine on oath the parties and their witnesses .....	98
" such oath or the affirmation is administered by one of the members or by the secretary-treasurer .....	98
" penalty for failing to appear when summoned .....	99
" attendance at the sittings thereof may be regulated by the council .....	465
COMPANY, <i>See</i> PROPRIETOR.	
COMPANIES of firemen may be established and governed by by-law of the local council .....	610
" (iron or wooden railway) works to fences and on roads, bridges and water-courses; are only liable for such work, on land owned or occupied by them .....	21, 22
" penalty to which they are liable for neglect to perform such works .....	22
" on neglect to perform such works the council or its officers cannot cause the same to be performed .....	22
" such companies cannot be subjected to the payment of taxes levied to aid the building of any iron or wooden railway in the municipality .....	22
" the secretary-treasurer must send to the principal place of business of such companies, a certified copy of every public notice, by-law, resolution, or <i>procès-verbal</i> which affects such corporation, as well as an extract from the valuation roll containing the valuation of the property of such companies, if they have applied for the same, and made known their principal place of business .....	165

COMP.

COMPT.

CONCE.

CONFIS.

CONSTA.

CONTES.

CONTRIB.



## COMPANIES :—

" must pay the secretary's fees on receipt of such document .....	165
" property belonging to companies which receive a grant from the provincial government, is not taxable .....	712
" possessing real estate must furnish the local council with a statement of the value thereof.....	720
" if such return is not made, their real estate is valued as that of any other rate-payer.....	722
COMPTON (county off, works on roads and bridges are made at the expense of the local corporations.....	1080
CONCESSION is meant by the word "range" .....	19 & 23
CONFISCATION of powder, when it may be authorized by the local council .....	577
" of bread, when it may be authorized by the local council .....	581
" of fire-wood, when it may be authorized by the local council .....	581
" of lumber, when it may be authorized by the local council.....	581
" of shingles, when it may be authorized by the local council .....	581
" of bark, when it may be authorized by the local council .....	581
" of all articles sold on markets or roads, when it may be authorized by the local council.....	636
CONSTABLES may, and must, when ordered so to do by the council, or by the head of the council, or one of the members thereof, arrest at sight, any person infringing a by-law, if the by-law contains a provision to that effect .....	1060
" must in any such case take the offender before a justice of the peace .....	1060
CONTESTATION of the appointment of warden by the council.....	253
" of appointments of members of the local council .....	346 to 364
" by whom and on what grounds .....	346, 347
" when must proceedings be taken .....	351
" before which court.....	348
" what proceedings must be taken.....	349 & fol.
" security to be given by the petitioners.....	352, 353
" costs may be recovered from the sureties.....	358
" on whom may the judgment be served.....	359
" new election ordered by the court .....	361 to 363
CONTRIBUTIONS; what, are municipal taxes .....	19 & 22

## CONTRIBUTIONS :—

" in material or labor, are convertible into money after they fall due ..... 945

" such contributions are municipal taxes after liquidation by a judgment or by a resolution of the council, after special notice to those interested... 19 § 22

CONTRACT, public works of the corporation are given out by ..... 205, 538, 783, 892 to 901

" See PUBLIC WORKS.

CONTRACTORS, for works on roads, bridges, or water-courses, are liable to the same obligations and penalties, and are sureties for the persons with whom they have contracted ..... 790, 858, 878

Co-PROPRIETOR, See PROPRIETOR.

COPIES of books, registers, documents, &c., certified by the secretary-treasurer, are evidence of their contents.....

CORD WOOD, See WOOD.

CORPORATION (municipal), how constituted, corporate name ..... 3

" collective powers..... 4

" local, meaning of the term..... 19 § 3

" is represented by the council ..... 93

" is responsible for the acts of the officers of the council ..... 199

" its responsibility as to the putting of by-laws into force..... 461, 706, 707

" its responsibility as to the putting of resolutions, rolls, *procès-verbaux*, and other ordinances of the council into force..... 5, 100 (461)

" of the county must have a vault or safe in the registry office..... 515 to 517

" penalty for not complying therewith..... 515, 516

" its property in the municipality is not taxable..... 712

" is bound to keep all roads, side-walks, bridges, and water-courses under its control in the state required by law and by all acts relating thereto ..... 793, 858, 878

" responsibility and penalty in case of non-execution of works required..... 793, 858, 878

" amount which its debt must not exceed ..... 977, 978

" local, may acquire lands sold for non-payment of taxes ..... 1005

" of the county may be obliged to give a deed of sale for lands sold for the payment of taxes..... 1008

" the execution of judgments rendered against corporations..... 1026 to 1041

CORPORATIONS, See PROPRIETORS.

## CORPORATIONS :—

" the secretary-treasurer is bound to send to the principal place of business of any corporation a certified copy of every public notice, by-law, resolution, and <i>procès-verbal</i> which affects it, together with an extract of the valuation roll of the value of its property, provided it has asked for the same and made known its principal place of business.....	165
" must pay the fees of the secretary-treasurer on receipt of the documents transmitted .....	165
" the property of religious, charitable, and educational corporations, is not taxable.....	712
" no council can lay down a road through any such property without the consent, in writing, of the owners .....	907
CORRUPTION, employed in the election of a mayor or local councillor, gives rise to a contestation of the election.....	346, 341
Costs, in appeal to the council, are taxed by such council.....	932
" in appeal to the county council, how recoverable...	932
COUNCIL (OFFICE OF THE OFFICERS OF THE) of a rural municipality may be established in a neighbouring city, town or village municipality.....	106
" (OFFICE OF THE) is that of the secretary-treasurer...	105
" of a rural municipality may be established in a neighbouring city, town, or village municipality .....	106
" services or deposits which should be made at such office, may be made with the secretary-treasurer personally or with a reasonable person at his domicile.....	107
" days on which the office is to be kept open, may be fixed by by-law .....	473
" if no days are fixed, it must be kept open every juridical day.....	473
" (LOCAL OR COUNTY), represents the corporation.....	93
" its name .....	94
" its jurisdiction .....	95
" appoints committees to whom it delegates its powers.....	96
" hears parties and their witnesses.....	97
" may take communication of all written proof.....	98
" may summon witnesses residing in the municipality.....	98
" may examine under oath parties and their witnesses .....	98

## COUNCIL :—

" parties summoned who make default, are liable to a penalty.....	99
" all its orders are executory until annulled.....	100 (461)
" may make appointments after the lapse of the prescribed delays, unless the lieutenant-governor has already done so.....	101
" its documents, orders, and proceedings, how published when necessary.....	102
" may publish its by-laws in the newspapers.....	694
" of a rural municipality, may have its office and hold its sessions in any adjacent city, town, or village municipality.....	106
" is not dissolved owing to any session not having taking place.....	140
" must, as far as possible, hold its sittings in the most public place of the municipality.....	141
" must approve of all minutes of the sitting....s.....	157
" must have a secretary-treasurer.....	142
" may demand an account of his receipts and expenditure whenever it deems necessary, in addition to the account he is bound to render in the month of June.....	166
" must appoint auditors every year in the month of March.....	173
" may fix, from time to time, by resolution, the place where the office of the secretary-treasurer must be held.....	171
" may appoint as many officers as it deems necessary.....	182
" must fill vacancies in municipal offices within thirty days.....	184
" may remove municipal officers.....	189
" may, with the approval of the lieutenant-governor, remove municipal officers appointed by him.....	189
" cannot exempt its officers from the discharge of their duties.....	198
" may dismiss any person notoriously disqualified for any municipal office to which he has been appointed, and may then fill such vacancy.....	208
" may, by resolution, and after special notice to the rate-payers interested, liquidate or convert into money all taxes and contributions, whether in material or labour.....	19 & 22
" of any territory erected into a new municipality or separated from any other municipality, may obtain copies of all documents relating to such territory.....	92

## COUNCIL

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## COUNCIL:—

able to	99	" may, on petition, obtain from the lieutenant-governor, an order in council, that all notices, by-laws, &c., be published in one language only.....	244
..... 100 (461)		" previous public notice thereof required.....	244
he pre-	101	" may allow fees to the rural inspector whose services have been required by the corporation.....	411
vernor	102	" fixes the localities in which public notices are to be posted up.....	232, 233
y pub-	694	" may authorize any work which shall have the effect of obstructing a public road or water-course.....	389
.....		" powers which may be exercised by it.....	449
ce and	106	" by-laws, resolutions, and other ordinances must be passed during its sessions.....	450
wn, or	140	" must comply with the formalities prescribed by its by-laws.....	451
having	141	" powers specially conferred on any council can be exercised by such council only.....	452
in the	157	" See BY-LAWS	
.....	142	" may exercise certain powers by resolution.....	460
expen-		" may make by-laws respecting the following matters:	
ddition	166	the attendance of members at the sittings of the council and of the committees.....	465
in the	173	the manner in which debates are to be carried on; order and decorum.....	466
nth of		the duration of the ordinary sessions.....	467
n, the	171	the reading of by-laws several times.....	468
asurer	182	the appointment of an officer to serve special notices.....	469
neces-	184	to define certain duties of officers of the council and to impose penalties for neglect or omission.....	470
within	189	tariff of fees payable to municipal officers.....	471
vernor,	189	remuneration of municipal officers by the council.....	472
m.....	198	days of the week on which the office of the council must be kept open.....	473
arge of		publication of notices of the meeting of the council in newspapers.....	474
alified	208	works to be done at the expense of the corporation, to ditches, water-courses, sewers, embankments, and fences.....	475
s been		to authorise the road inspector to allow works of a dangerous nature to be carried on, on the public highway.....	476
to the	19 & 22	to aid any public work in another municipality.....	477
t into			
her in	92		
.....			
lity or			
y ob-			
o such			
.....			





## COUNCIL :—

second or	478	" homologation of <i>procès-verbaux</i> .....	805 to 807
taken by		" may amend an act of apportionment.....	819
l govern-		" See <i>procès-verbaux</i> .	
	479	" must, if there are two front roads not governed by	
	480	by-law or <i>procès-verbaux</i> , in a depth of 30 ar-	
griculture,		cents of land, declare which of such roads must	
	484	be kept in order by the occupant.....	825
arks...485 to	487	" approves of the apportionment made by the road	
	488	inspector of the cot of repairs on roads and	
y or real		bridges not governed by by-laws or <i>procès-</i>	
	489	<i>verbaux</i> .....	827,856
certain	490	" cannot cause the demolition of any dam or flood	
tain per-		gate of a manufactory because it is an obstruc-	
	491	tion to a water-course.....	880
...492 and fol.		" approves of acts of agreement respecting work to	
...493 do		be done on water-courses under its control.....	888
the cor-	499	" gives out public works by contract.....	892 and fol.
	503	" notice thereof.....	893
	504	" awards the contract by resolution.....	894
imals...	505	" must take satisfactory security from the contrac-	
s officers	506	tors.....	896
e carried		" which has made the contract may enforce the per-	
	507	formance thereof.....	899
violation		" when other councils may also enforce the perfor-	
	508	mance of the contract.....	900
tioned in		" may order the road inspector to superintend the	
to divide	509	execution of the work.....	901
ity after		" may appropriate land required for municipal pur-	
...79, 86, 88		poses.....	902 and fol.
posit all	500	" cannot do so in certain cases without the written	
any road		consent of the proprietor.....	904, 905
e same..	749	" may make an arrangement with the expropriated	
al to re-		proprietor as to the indemnity.....	908
work on	791	" fixes the time and place, where the first valuers	
	835	called in to decide on the amount of the indem-	
al to re-		nity, are to proceed.....	912
work on	881	" appoints another valuator in the event of the	
		award of the first valuator being objected to.....	916
		" may order the indemnity to be apportioned and	
		collected by the officer superintending the	
		work.....	923
		" must, when the corporation has not sufficient	
		funds to satisfy a judgment which has been ren-	
		dered against it, order forthwith by resolution,	
		a levy of the necessary amount.....	1027
		" may order a constable or police officer to arrest at	
		sight, any person infringing a by-law, if such	
		by-law contains a provision to that effect.....	1060

## COUNCIL :—

- " *See* PRESIDENT OF THE COUNCIL, SESSIONS *and other*  
COUNCILS.
- " (COUNTY), *See* COUNCIL (local or county).
- " of whom composed ..... 240
- " place of session ..... 258
- " quorum ..... 258
- " *See* SESSIONS (local or council) and SESSIONS OF THE  
COUNTY COUNCIL.
- " governs any territory not erected into a local mu-  
nicipality or whereof the council is not organised. 28
- " may with the approval of the lieutenant-governor  
in council erect any parish or part of a parish  
situated in a township, into a municipality..... 32, 40
- " may with a like approval annex any territory si-  
tuated in a township, into a parish municipality. 33, 40
- " may with a like approbation erect into a municipa-  
lity of a part of a township, any township terri-  
tory not situated in a canonical or civil parish.. 37a, 40
- " may with a like approval form united townships  
into a municipality ..... 39, 40
- " may with a like approval annex any territory to an  
adjacent town or village municipality ..... 72, 40
- " proceedings to be taken to annex any territory to  
a rural municipality ..... 40
- " do do to any town or village municipality. 72
- " proceedings to be taken to separate any territory  
united or annexed to another territory..... 40
- " must, when required, have a census taken of any  
territory united or annexed to another territory.. 40
- " proceedings necessary in order to erect any terri-  
tory into a village municipality ..... 52 and fo
- " when is the warden appointed by it ..... 248, 262
- " when are the delegates appointed by it..... 262, 262
- " a copy of the by-laws must be transmitted to the  
office of each local municipality ..... 40
- " has alone the power to make by-laws for the fol-  
lowing objects :
- to fix the chief place of the county ..... 5
- to fix the place where the circuit court for the  
    county must be held ..... 5
- building for such court ..... 5
- building for the registry office ..... 514 to 514
- for the copying of all deeds in the registry office  
    according to sec. 94, cap. 37, C. S. L. C. .... 5
- guide posts and mile posts on public roads.... 5
- toll bars on bridges under the control of the  
    corporation ..... 5
- winter vehicles on public roads. .... 5

## COUNCIL :

- " m
- " ma
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- " See A
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## COUNCIL :—

and other

to prevent the construction of macadamized or planked roads according to cap. 70 of C. S. L. C.....	522
respecting fires in the woods.....	523
the indemnity to be paid to the warden, the members and the delegates of the council, for board and travelling expenses.....	524
" must examine the valuation rolls sent in by the local councils.....	740, 741
" may by resolution or in a <i>procès-verbal</i> declare that a local road, bridge or water course be a county work, or that a county road, bridge or water course be a work of the local municipality in which it is situated .....	758, 858, 878
" such a declaration must be preceded by a public notice, and must be published immediately after the passing thereof.....	761, 858, 878
" See ROADS, WATER-COURSES, BRIDGES, and <i>PROCÈS- VERBAUX</i> .....	
" cannot appropriate certain property without the written consent of the proprietor.....	904, 905
" appeals lie to it from by-laws by rural municipali- ties, excepting those which repeal other by-laws, those relating to the sale of intoxicating liquors and those which must be approved by the munici- pal electors .....	925
" appeals lie to it from the homologation of any <i>pro- cès-verbal</i> by a local council.....	926
" appeals lie to it from any amendment to an act of apportionment by the local council.....	926
" appeals lie to it from any amendment made by the local council to the valuation roll as prepared by the valuers.....	927
" such right of appeal also exists if the local council refuse to take cognizance of written complaints..	927
" must take every petition in appeal into considera- tion within thirty days of the filing thereof.....	930
" notice required.....	931a
" taxes costs in appeal.....	932
" See APPEAL TO THE COUNTY COUNCIL.	
" general taxes imposed by it are levied on the local corporations of the county.....	938
" may be recovered before a court of justice, if not paid .....	939
" must approve of the apportionment of such taxes, made by the secretary-treasurer, between the lo- cal corporations of the county.....	940

## COUNCIL :—

- " county taxes imposed for special purposes, how recoverable ..... 941
- " debts contracted by a county corporation for general purposes are apportioned and levied in the same manner as taxes ..... 973
- " its debt cannot exceed twenty per cent of the value of the taxable property of the municipality ..... 977
- " See DEBENTURES.
- " an appeal lies to the circuit court from its decisions respecting the homologation of a *procès-verbal* or the amendment of an act of apportionment, when sitting otherwise than in appeal ..... 1061
- " See APPEAL TO THE CIRCUIT COURT.
- " local councils which have the functions and powers of county councils .... 26, 1081, 1083
- " (LOCAL), See COUNCIL (local or county).
- " meaning of the term ..... 19 & 3
- " the number of persons composing it ..... 27
- " duration of the office of local councillor. 116, 277, 282, 333
- " manner in which councillors, appointed at the first election after the coming into force of the code, retire from office ..... 279, 280
- " the head, how designated ..... 281
- " the mayor when appointed by it ..... 336
- " qualification required to be member ..... 283 to 285
- " See MUNICIPAL OFFICES.
- " may fix upon the localities in which public notices are to be read aloud ..... 234
- " appoints a person to preside at the election of councillors ..... 296
- " such person may be one of the members not retiring from office ..... 296
- " such person may, within four days, refuse to preside at the election ..... 305
- " must reimburse the presiding officer all necessary election expenses ..... 306
- " may allow him an indemnity for his services ..... 306
- " vacancies among the members, when to be filled up ..... 339, 343
- " if owing to vacancies there are fewer than four councillors, the council does not sit ..... 338
- " in any such case, the vacancies can be filled by the lieutenant-governor only ..... 341
- " may at any time appoint a pro-mayor. .... 343
- " appoints in the month of March, each year, valuers, road and rural inspectors and pound-keepers ..... 363
- " examines the statement of arrears of taxes, submitted by the secretary-treasurer for its approval ..... 372

## COUNCIL

" I

" n

" h

## COUNCIL :—

may, by resolution, authorize the road inspector to procure certain implements for use on winter roads.....	941	385
may authorize the rural inspector to perform at the expense of the corporation any work necessary in the snow or ice for the prevention of floods, &c.	973	414
has alone the power to make by-laws respecting the following objects, viz:	977	
the construction and maintenance of municipal roads and bridges.....	1061	536 and fol.
the improvement or change of position of existing roads and bridges.....		527 and fol.
the closing or destruction of public roads..		530, 762a
the levelling or cleaning of any ford.....		533
the raising, rounding, paving, macadamizing, gravelling or planking of any road...		533, 534
the ordering of works on roads and bridges at the expense of the corporation.....		535 and fol.
the levelling of fences on roads in winter.....		541
the erection of turnpikes on bridges or roads under the control of the corporation.....		542
squares, parks or public places.....		543
sidewalks.....		544, 546
sewers.....		545, 546
the planting of trees on public roads.....		547
the rate at which horses may be driven on public roads in the vicinity of churches.....		548
ferries and ferry licenses.....		549 and fol.
the fixing or approving of tolls for crossing such ferries.....		550 and fol.
maps, plans or surveys of the municipality....		554
the division of the municipality into road divisions.....		555
the division of the municipality into rural divisions.....		556
to prevent the destruction of certain trees.....		558
abuses prejudicial to agriculture.....		559
to establish public pounds, appoint guardians, and fix the tariff of fees.....		560
to prohibit the sale of intoxicating liquors..		561 and fol.
to limit the number of licenses for the sale of intoxicating liquors.....		568 and fol.
the storage of gunpowder and other explosive substances.....		573 to 578
broad, its weight and quality, and the marks it should bear.....		579, 581
the measuring of cord wood, lumber, bark, or shingles.....		580, 581

## COUNCIL :—

trading licenses.....	582, 583
personal taxes on tenants and others.....	584, 585
Indemnity to persons whose property has been injured by rioters.....	586
aid to the poor and to charitable institu- tions.....	587, 591
“ any person who has been injured or con- tracted sickness at a fire.....	588
“ the family of any person who has lost his life at a fire or in endeavouring to save any one from serious accident..	590
the giving of rewards for meritorious actions..	589
the cleansing of stables, cattle sheds, pigsties, out-houses, privies, and yards.....	592
the deposit of substances whence issue nox- ious odors.....	593
the letting off of fire-works, fire-crackers, fire- arms, or lighting fires in the open air in certain localities.....	594
dogs, and the taxation of their owners.....	595
slaughter-houses, either public or private .....	596
the desecration of burial grounds, tombs, &c.,	597
the suppression of gambling-houses and gamb- ling, and of houses of ill-fame.....	598
circuses and theatres.....	599
the closing of taverns and other places of public entertainment, from Saturday until Monday.....	600
the prevention of races and all other exercises on Sundays and holidays of obligation.....	601
the prevention of dog fights, cock fights, and other cruel amusements.....	602
the use of profane oaths and blasphemous language in certain localities.....	603
the posting up of indecent placards, &c., on walls, &c.....	604
bathing in the open air.....	605
to prohibit the giving of intoxicating liquor to any child, servant, or apprentice, without the consent of the father, mother, master, or legal guardian.....	606
the establishment of boards of health.....	607
measures against contagious diseases.....	608
lock-up houses.....	609
fire companies or firemen.....	610
to limit the number of the sessions of the council.....	611
fences on public roads.....	612

COUNCIL

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# MUNICIPAL CODE.

465

## COUNCIL :—

.....582, 583	fences around burial grounds ....	613
as been .....584, 585	public drinking founts.....	614
.....586	" to impose a duty on certificates approved by the council to obtain a license to keep a house of public entertainment.....	615
.....587, 591	" may grant a permit to carters, which gives them the same privileges as a license, as to the right to go into any other municipality.....	583
or con- .....588	" may order the valuator, or, on their refusal or neglect, any other person, to make a statement of every one subject to personal taxes, imposed under any by-law.....	585
as lost .....590	" may, in the event of there being no valuation roll, or of the valuation roll having been annulled, order the valuator to make one.....	717
ring to .....589	" may require certain information to be inserted in the valuation roll.....	718
ent.. ..592	" must, within thirty days, examine the valuation roll deposited by the valuator.....	734
ctions.. ..593	" notice required thereof.....	734
igaties, .....594	" must, at the time of the examination, take cognizance of all complaints, whether written or verbal.....	737
.....595	" may, after each change of owner or occupant, on a written petition and sufficient proof thereof, erase from the valuation roll the name of the former owner or occupant, and substitute that of the new one.....	746
.....596	may, the year during which a roll is not made, revise that in force.....	746a
.....597	" when makes a by-law or <i>procès-verbal</i> to regulate, determine and apportion the works on roads...528, 947	
.....598	" do do do on bridges...528, 855	
.....599	" do do do on water-courses...528, 884	
.....600	" See ROADS, WATER-COURSES, BRIDGES, <i>procès-verbaux</i> .	
.....601	" ferries under its control.....	860
.....602	" See FERRIES.	
.....603	" circumstances under which, in cases of expropriation, valuator are appointed to replace those in office.....	911
.....604	" an appeal lies to the county council from the homologation of a <i>procès-verbal</i> .....	926
.....605	" an appeal lies to the county council from an amendment to an act of apportionment.....	926
.....606	" an appeal lies to the county council from an amendment to the valuation roll prepared by the valuator.....	927
.....607		
.....608		
.....609		
.....610		
.....611		
.....612		

## COUNCIL :—

- " an appeal lies to the county council when no cognizance has been taken of any complaint against such roll. .... 927
- " See APPEAL TO THE COUNTY COUNCIL.
- " may, by resolution, exempt manufacturers and their land from the payment of certain taxes for a period not exceeding twenty years..... 943
- " may, by resolution, commute the municipal taxes of such persons for a fixed sum of money, payable annually, for a period not exceeding twenty years..... 943
- " may, by resolution, exempt the poor and their property from the payment of certain taxes..... 943
- " may, by resolution, add ten per cent. to the taxes to be levied in order to cover costs and losses... 944
- " cannot remit the interest due on taxes..... 947
- " must, on demand of the school commissioners or trustees, collect their taxes at the same time as the municipal taxes..... 952
- " its debt cannot exceed twenty per cent. of the value of the taxable property of the municipality..... 978
- COUNCIL (RURAL OR COUNTY), definition of the term..... 19 § 2
- " may hold its office and sittings in any adjoining village, town, or city municipality .. . 106
- " cannot expropriate certain property without the written consent of the owner..... 904
- " its by-laws, with some exceptions, may be appealed to the county council..... 925
- " See APPEAL TO THE COUNTY COUNCIL.
- " (TOWN OR VILLAGE), See COUNCIL (local or county) and COUNCIL (local).
- " must, within four months after the coming into force of this code, make by-laws for the establishment of public pounds, the appointment of pound-keepers and to fix their salaries..... 560
- " must, if the municipality has been divided into wards, appoint as many persons to preside at the election for councillors, as there are wards..... 296, 623a
- " may make by-laws for the following objects :
  - the division of the municipality into wards 617 to 623
  - the conduct of masters towards their servants. 624
  - of servants towards their masters..... 624
  - public markets..... 625 to 636
  - duties of officers of public markets..... 626
  - to prohibit the sale of certain articles elsewhere than on public markets..... 627, 628

# MUNICIPAL CODE

467

## COUNCIL (RURAL OR COUNTY):—

to prohibit or regulate the sale of fresh fish in the municipality.....	629
to regulate the conduct of buyers and sellers on markets.....	630
to impose duties on all persons selling certain articles in the municipality, or on the vehicles of such persons.....	631, 632
to regulate the manner in which such vehicles shall be placed in the markets.....	333
hucksters, &c.....	634
weights or measures of certain articles.....	635
the confiscation of certain articles sold in contravention of the by-laws.....	636
aqueducts, public wells or reservoirs.....	637, 639
light.....	638, 639
aid to companies for supplying light or water, by taking shares in, or lending money to such companies.....	640
to cause the removal of erections projecting beyond the line of the public road.....	641
the removal of walls in a state of dilapidation.....	642
to prevent the throwing of any filth on public roads.....	643
to cause the removal of snow or filth from public roads, by proprietors.....	644
the removal of snow, by proprietors, from the roofs of houses.....	644
to prevent the obstruction of the public highway.....	645
to regulate the construction of privies and cellars.....	646
to prevent the erection of wooden buildings or fences.....	647
respecting the erection of steam factories.....	648
respecting slaughter-houses, gas works, tanneries and other factories which might become public nuisances.....	649
to prevent the deposit of deleterious substances in the municipality.....	650
respecting the cleansing of groceries, cellars, manufactories and unhealthy places.....	651
the drainage of stagnant waters by proprietors to take means to prevent or arrest the course of fires.....	652 to 667
respecting the conduct of persons present at a fire.....	666
the height of sidewalks and of safety and division walls.....	667

<b>COUNCIL (RURAL OR COUNTY):—</b>	
the police force.....	668
the numbering of houses and lots.....	669
the cleansing of roads and sidewalks.....	670
“ is bound to divide the municipality into wards, upon a special petition, otherwise the lieutenant-governor may divide.....	623a
“ may order that the roads in the municipality are not front roads.....	765
“ is the owner of land reserved or acquired for streets or squares in the municipality, and may deviate from the plan of such streets or squares.....	767
<b>COUNCILLOR, (local) definition of the term.....</b>	<b>19 § 3</b>
“ case in which not one of them can read and write.....	336
“ vacancy in the office.....	337 to 341
“ contested elections.....	346 to 364
“ (county) definition of the term.....	246
“ is not indemnified for his services.....	113
“ penalty by persons refusing to accept the office of.....	117
“ See MEMBER OF THE COUNCIL.	
<b>COUNTY, signification of the word.....</b>	<b>19 § 7</b>
“ means each of several counties united to form an electoral division.....	19 § 7
“ See MUNICIPALITY.	
“ COUNCIL. See COUNCIL.	
<b>COURT CIRCUIT, OF THE COUNTY, meaning of the term.....</b>	<b>19 § 9</b>
“ the choice of the place at which it must be held is made by by-law of the county council.....	512
“ the erection and maintenance of a building for the court is provided for by by-law of the county council.....	513
“ appeal to the.....	1061 to 1079
“ magistrate's court or magistrate's court of the county, meaning of the term.....	2..... 19 § 10
<b>CRANE ISLAND, (municipality of) possesses the powers of a county council.....</b>	<b>1081</b>
<b>CROWN PROPERTY, property belonging to Her Majesty or held in trust for her use is not taxable.....</b>	<b>712</b>
“ no council can cause roads to be laid down through it without a written consent.....	905 (712)
“ front roads on, how made and maintained.....	780
<b>CROWN LANDS, occupied, are liable for taxes by the occupant.....</b>	<b>714</b>
“ the provincial registrar must forward to the offices of local municipalities a return of the lands granted by the crown.....	715
“ unoccupied, are not liable for work to roads, bridges and water-courses.....	780, 858, 878
“ the occupants thereof are liable.....	780, 858, 878

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.....	668	DAISIES, <i>See</i> NOXIOUS WEEDS.	
.....	669	DAMS, <i>See</i> EMBANKMENTS.	
.....	670	DANGEROUS PLACES on roads form part of the works on such roads.....	773
ards,		' how protected .....	773, 788
nant-	623a	DAY-LABOURERS, <i>See</i> MASTERS AND SERVANTS.	
y are	765	DAYS on which the office of the council is to be kept open, may be fixed by by-law.....	473
streets		" in the absence of a by-law, to be kept open every day.....	473
violate	767	DEAD BODIES, <i>See</i> DELETERIOUS MATTER.	
.....	19 § 3	DEBATES in the council, the manner in which they are to be carried on may be regulated by the council..	466
write	336	DEBAUCHERY, <i>See</i> GAMBLING HOUSES OR HOUSES OF ILL-FAME.	
...337 to 341		DEBENTURES, meaning of the word.....	19 § 32
...346 to 364	246	" the council may, by by-law, authorize their issue..	493
.....	113	" such by-law must declare the purposes for which they are issued .....	494
ce of.	117	" may contain the conditions deemed requisite for their issue.....	494
.....	19 § 7	" must impose on the property liable therefor, an annual tax for the payment of the interest and the formation of a sinking fund.....	495
m an	19 § 7	" this tax may be imposed or levied according to the last roll, if the valuation is not less.....	978a
.....	19 § 9	" must be approved by the lieutenant-governor in council, and if it affects the whole municipality, by the municipal electors.....	496
ld is	512	" the owners of real estate are alone entitled to vote, if the by-law refers to real estate only.....	497, 986
r the	513	" the secretary-treasurer must forward to the lieutenant-governor a statement under his special oath shewing the value of the taxable property of the municipality and all its liabilities.....	498
nty	1079	" if made by a county council and if a local corporation has already given aid to the same undertaking, it may be stipulated in such by-law that the local aid shall form part of the county aid.....	974
.....	19 § 10	" effect of such stipulation with regard to the local aid and debentures .....	975, 976
of a	1081	" must, before the debentures are negotiated, be transmitted to the registrar and registered by him.....	990, 992
y or	712	" by-laws made before the coming into force of the code and which have not been registered, must be registered within three months thereafter.....	991
ough	905 (712)	" penalty incurred by the secretary-treasurer for neglect to comply with the provisions of articles 990 and 991 .....	995
...905 (712)	780		
ccu-	714		
ices	715		
ands			
oads,			
30, 858, 878			
30, 858, 878			

## DEBENTURES :—

“ so registered are open to public inspection .....	993
“ issued before the coming into force of this code continue to be governed by the provisions of cap. 83, C. S. L. C.....	980
“ what must be specified in each .....	981, 982
“ interest thereon is payable half-yearly.....	983
“ where and in what manner are they made payable.	972
“ to whom payable.....	984
“ may be issued for a sum less than \$100.....	985
“ may be made payable within five or after thirty years from their date.....	985
“ if payable after five years the annual tax can be imposed on taxable real estate only.....	986
“ manner in which they may be negotiated.....	987
“ may contain a stipulation that the sinking fund be payable to the lender .....	988
“ which do not contain the foregoing stipulation may be exchanged for others payable in the manner set forth in article 988 .....	989
“ in any action for the recovery of the amount of a debenture, it is not necessary to allege the pro- ceedings in virtue of which it issued .....	996
“ issued under a by-law approved by the lieutenant- governor are valid notwithstanding any irregu- larity or illegality.....	997
DEBTS (municipal), for general county purposes are payable by local corporations.....	973
“ of corporations cannot exceed twenty per cent. of their valuation.....	977, 978
“ annual return of, must be sent by the sec.-treasurer to the auditor of accounts of the Province.....	168
“ period at which the latter must prepare and sub- mit a statement to the legislature of all corpora- tions indebted.....	979
“ passive born in common.....	78
“ See DEBENTURES.	
“ division of the debts of a separated municipality..	78 to 85
DECEASY, may be regulated by the local council.....	597 to 606
DECLARATION of qualification by a councillor.....	283
DEED of sale of land for taxes .....	1009
“ “ “ by the Sheriff.....	1035
DELAYS, appointments by the council may be made after the prescribed delay, unless the lieutenant-gov- ernor has already done so .....	101
“ intermediate, after special notice, run from the date of service.....	231
“ ordinary delays after pub. not. are of 7 clear days..	238
“ intermed., after pub. not., date from which they run.	239

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# MUNICIPAL CODE.

471

993	DELEGATES (county), are three in number .....	261
his code	“ act with those from other counties.....	262
sions of	“ the warden is <i>ex-officio</i> one of the delegates.....	261
980	“ the other two, are appointed by the council after	
981, 982	the entry into office of the warden.....	262
983	“ appointments in case of vacancy, when made.....	263
ayable. 972	“ on neglect of the council to appoint, the lieutenant-	
984	Governor may do so.....	264
985	“ must be members of the council.....	265
r thirty	“ an indemnity may be allowed them for their ex-	
985	penses and board, by by-law of the county	
can be	council .....	524
986	“ See BOARD OF DELEGATES.	
987	DELETERIOUS MATTERS (making deposits of) may be regu-	
988	lated by the local council.....	593
and be	“ the town or village council may, by by-law, pre-	
n may	vent the leaving of, in the municipality.....	650
manner	DENTISTS, their annual income is taxable property.....	710
989	DEPOSIT of documents which must be made at the office of	
t of a	the council, may be made with the secretary-	
e pro-	treasurer personally or with any reasonable per-	
996	son at his domicile. ....	107
enant-	“ of deleterious matter may be regulated by the local	
regu-	council .....	593
997	“ of <i>procès-verbaux</i> .....	55, 804
yable	“ of valuation Roll .....	726
973	“ on the opposition to the seizure for taxes .....	966
nt. of	“ See RECEIPT.	
977, 978	“ DEPOSITION, on oath on behalf of a municipal corpo-	
978	ration, by whom made.....	8
979	DESCRIPTION of any lot of land, how given.....	20
980	DIFFERENCE between the French and English texts of the	
981	code; when any such occur which version shall	
982	prevail .....	18
983	DISEASES, contagious, the local council may, by by-law or	
984	resolution, take proper measures for securing	
985	the municipality from.....	608 (460)
986	DISQUALIFIED, See OFFICE (MUNICIPAL.)	
987	DISTILLERIES may be regulated by the town or village	
988	council .....	649
989	DISTRICT, meaning of the term .....	19 & 6
990	DITCHES, works in connection therewith, may, by resolu-	
991	tion or by-law, be made at the expense of the	
992	corporation .....	475 (480)
993	“ municipal roads must, when necessary, have ditches.	771
994	“ on such roads are a part thereof.....	773
995	“ (boundary) must be opened up and repaired on the	
996	order of the rural inspector.....	420 to 422
997	“ penalty for neglecting to comply with the orders given.	423

## DITCHES :—

“ penalty for obstructing or allowing them to be obstructed.....	424
Division of the debts of a separated municipality.....	78 to 85
“ common property do .....	86 to 89
Divisions (road), are made by the local council by by-law or resolution .....	555 (460)
“ the local council must appoint a road inspector for each .....	365
“ (rural) are made by the local council, by by-law or resolution.....	556
“ the council must appoint a rural inspector for each .....	365
“ if the municipality is not divided by the council it forms one division only .....	557
“ of the municipality in wards.....	554, 617
Documents filed with the council as exhibits, must be returned.....	104
“ posted up, penalty for tearing down, injuring or destroying them .....	11
Dogs, the local council may make by-laws to order them to be kept muzzled or tied up, or to prevent them from straying .....	595
“ the local council may, by by-law, impose a tax on the owners of.....	595
Dog-fights may be prevented by by-law of the local council .....	602
Domicile, <i>See</i> ABSENTEE, NOTICE.	
Door-steps, <i>See</i> ERECTIONS.	
Drains, <i>See</i> PLACES (unhealthy and unwholesome).	
“ small municipal roads must, if necessary, have small drains .....	771
“ from part of the municipal roads on which they are situated.....	773
Drawings (indecent), the local council may, by by-law, prohibit the posting up of, in certain localities...	604
Drink, any, whereof part is intoxicating, is an intoxicating liquor.....	19 § 31
Drinking fountains (public) may be established and regulated by by-law of the local council .....	614
Duties of a certain kind are municipal taxes.....	19 § 22
Dykes may be acquired by the council by means of a by-law or resolution.....	485 (460)
“ must not be demolished because they are obstacles to water-courses.....	880
Elections (general) of local councillors.....	292 to 325
“ seven councillors must be elected at the first .....	278
“ when must it take place.....	292, 293
“ when must the first general election of a new municipality take place .....	293

ELECTIONS

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# MUNICIPAL CODE.

473

## ELECTIONS :—

" notice required ; by whom given.....	294
" neglect to give such notice does not prevent the election taking place.....	295
" by whom is it presided over.....	296 to 298, 623
" when does the presiding officer vote.....	299, 321
" the person presiding at an election is not eligible as a candidate.....	285
" the person presiding is a keeper of the peace ; his powers as such.....	300, 301
" the person presiding must be reimbursed his costs and may be indemnified for his loss of time.....	306
" the person appointed to preside, may, within four days, decline the office.....	305
" place at which the meeting of municipal electors is held.....	307, 620
" hour at which it must be opened.....	307
" nomination of candidates.....	308, 309
" their names as well as the names of their proposers must be given to the presiding officer.....	309
" must be closed after the lapse of an hour, if no poll is required.....	310
" a poll is held on the demand of five electors present.....	311 to 325, 621
" in the absence of any such demand the presiding officer decides the election.....	312
" number of candidates for whom an elector may vote.....	314, 622
" oath which an elector must take, if so required.....	315
" penalty incurred by any unqualified person who votes.....	316
" the interpreter and the oath which he must take.....	317
" poll book, how kept.....	313, 318 to 320
" must be sent to the office of the local council within eight days after the election.....	304
" when is the election continued to the following day.....	322
" when must the poll be closed.....	323, 324
" the successful candidates are proclaimed elected ..	325
" notice must be given by the presiding officer, within three days after the election, to the candidates elected.....	302
" the presiding officer must make the result of the elections known to the county council.....	303
" new elections are ordered by the court in the case of a contested election being annulled.....	361 to 363
" exceptional provisions respecting the holding of polls in the Magdalen Islands.....	1085

<b>ELECTORS</b> (municipal), conditions which they must possess.....	291
" any five electors present, may demand that a poll be held.....	311, 363
" one may inform the lieutenant-governor that no election of local councillors has taken place.....	326
" approval of by-laws by.....	671 to 687
" who are proprietors ; when are they alone entitled to vote for the approval or disapproval of a by-law .....	497
" are competent to give evidence in cases in which the rights of the corporation are in question.....	7
<b>EMBANKMENTS</b> , the council may, by by-law or resolution, order that embankments be made and kept in repair at the expense of the corporation.....	475 (460)
" may be acquired by the corporation, under a by-law or resolution.....	485 (460)
" (dams) of mills or factories cannot be demolished because they obstruct a water-course.....	880
" no council can injure them without the written consent of the proprietor.....	905
<b>EMPLOYEES</b> of the federal and provincial legislature are exempt from municipal offices.....	209
" of iron or wooden railways are exempt from municipal offices.....	209
<b>ENDIVE</b> (wild), <i>See</i> NOXIOUS WEEDS.	
<b>ENGINEERS</b> (civil), their annual income is taxable property .....	710
<b>ENTRY</b> into office of members of the council, how effected..	111
<b>ERECTION</b> of new local municipalities.....	27 to 71
" " village municipalities.....	51 to 67
" " town municipalities.....	68 to 71
" <i>See</i> MUNICIPALITY.	
<b>ERECTIONS</b> which project beyond the line of the public highway, must, by by-law of the town or village council, be removed.....	641
<b>ERROR</b> in any act in the designation of the corporation or municipality, or of the act itself, is not a cause of nullity, provided that no surprise or injustice result therefrom.....	15
<b>ESCOUMAINS</b> (local council of), in the county of Saguenay, possesses the powers of a county council.....	1081
<b>EXECUTION</b> of judgments against municipal corporations.....	1026 to 1041
" on service of the judgment, the secretary-treasurer must pay the amount thereof if there are funds at his disposal.....	1026
" if there are no funds, a sufficient sum must be levied without delay by resolution of the council .....	1027
" the court may grant delay.....	1028

## EXECUTION :—

must pos-.....	291	" if the judgment remains unsatisfied for two months,	
at a poll.....		or at the expiration of the delay granted, the	
.....311, 363		court issues a writ of execution on " and.....	1029
that no.....	326	" such writ is attested, sealed and signed by the	
ace.....	326	prothonotary or clerk, and is addressed to the	
entitled to 687	687	sheriff.....	1030
of a by-.....		" what such writ enjoins on the sheriff.....	1030, 1031
.....	497	" the sheriff has access to the archives of the coun-	
a which.....		cil.....	1032
ion.....	7	" he may require the services of the officers of the	
olution,.....		council under the usual penalties.....	1032
kept in.....	475 (460)	" must take possession of the rolls and documents	
or a by-.....	485 (460)	which are necessary to him.....	1033
olished.....	880	" if he cannot obtain the rolls, or if there be no	
written.....	905	such rolls he must make a valuation of the pro-	
are are.....	209	perty.....	1034
a muni-.....	209	" the costs of such valuation form part of the costs	
.....	710	of execution.....	1034
ected.. 111		" the sale and adjudication of real estate by the	
.....27 to 71		sheriff, have the same effects as if made by the	
.....51 to 67		secretary-treasurer of the county.....	1035
.....68 to 71		" a deed of sale is given by the warden, if the re-	
public.....	641	demption has not been effected within two years.	
village.....		" the fees, costs, and disbursements of the sheriff,	
.....		are taxed by the court.....	1036
tion or.....		" the sheriff must transmit to the council a copy of	
cause.....		his collection roll, and any other document of	
justice.....	15	which he took possession.....	1037
uenay,.....	1081	" any arrears or surplus belong to the corporation...	1038
.....		" property in the name of the corporation may also	
corpora-.....		be taken in execution for such judgment.....	1039
1026 to 1041		" the sheriff may obtain any order from the court	
asurer.....		which is necessary to him.....	1040
funds.....	1026	EXEMPTION from municipal offices.....	209 to 213
ust be.....	1027	EXISTING town or village municipalities.....	49
council.....	1028	EXPERTS, See ANIMALS FOUND STRAYING, CLEARANCES.	
.....		EXPLOSIVE SUBSTANCES, See POWDER.	
		EXPRESSIONS, (useless) when the validity of an act is not	
		affected by.....	14
		EXPROPRIATION for municipal purposes, how effected.....	902 to 924
		" when does the corporation become the owner of	
		the land expropriated.....	903
		" what property cannot be taken by a rural or	
		county council.....	904
		" what property cannot be taken by municipal	
		council.....	905
		" no indemnity is allowed for a first front road or	

## EXPROPRIATION :—

for the land reserved for a road in the concession of a lot .....	906
" no indemnity is allowed by way of <i>prix d'affection</i> .....	906
" advantages which the owner derives from the new road go in deduction of the value of his land expropriated .....	907
" the indemnity may be fixed by agreement .....	908
" it may be agreed to allow no indemnity .....	908
" in the absence of an agreement the indemnity is fixed by the valuers .....	908
" in what cases are the valuers incompetent to act .....	990
" the competence of any valuers cannot be questioned after the award is rendered .....	910
" the local council must replace any incompetent valuator .....	911
" proceedings of the valuers; previous public notice; examination of the parties and their witnesses; investigations; award; notice of the lodging of such award .....	912, 913
" award of the first valuers, when final .....	914
" objection may be made thereto within thirty days after public notice .....	915
" three new valuers are then appointed .....	916
" proceedings of such valuers .....	917
" their award is final .....	917
" what must be set forth in the award .....	918
" the indemnity granted bears interest at the rate of four per cent. from the entry into possession, and is payable within four months .....	919
" any person in possession who is deemed to be the <i>bona fide</i> proprietor is entitled to receive the indemnity .....	920
" if within four months any creditors lay claim to the money, the secretary-treasurer must keep it in his hands until a judgment is rendered by the magistrate's court or the circuit court .....	920
" if the work is at the charge of the rate-payers, the indemnity, costs and interest are apportioned among them by the secretary-treasurer who must collect the same .....	920
" the apportionment may be made, by order of the council, by the officer superintending the work, and the amount collected by him .....	920
" when are the works under the direction of the delegates .....	920
EXTRACTS from books, registers, documents, &c., certified by the secretary-treasurer are evidence of their contents .....	15

FABRIQUE  
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FACTORIES

" S  
FARM-YARD

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477

conces- ..... fection. om the e of his ..... ..... mnity is ..... at to act be ques- ..... mpetent ..... public ad their e of the .....912, ty days ..... ..... ..... ..... e rate of on, and ..... o be the e the in- ..... m to the it in his the ma- ..... ers, the ortioned ho must ..... r of the e work, ..... the de- ..... certified of their ..... 15	906 906 907 908 908 908 990 910 911 912, 913 914 915 916 917 917 918 919 92 92 92 92 92 92 15	FABRIQUES, property belonging to, is not taxable ..... " no council can lay down a road through any such property without written consent..... FACTORIES of candles or soap may be regulated by the town or village council ..... " See MANUFACTORIES. FARM-YARDS, no council of a county or rural municipality can cause a public road to be made through cer- tain farm-yards without the written consent of the owner..... FENCES, the council may, by by-law or resolution order that fences be made and kept in repair at the expense of the corporation..... " the local council may, by by-law, prevent the post- ing up or making of indecent drawings, placards or writings thereon..... " along municipal roads; the local council may, by by-law, oblige owners to put them up..... " around burial grounds; the local council may, by by-law, cause them to be put up at the expense of the corporation..... " wooden, may be forbidden by by-law of a town or village council..... " on front roads, at whose cost..... " on by-roads, at whose cost..... " on by-roads, the portions to be made are deter- mined by <i>procès-verbal</i> , by by-law, or by the road-inspector..... " required on municipal roads must be kept in good order ..... " which must be kept levelled by the owners on front roads during winter..... " the local council may make by-laws or resolutions respecting the levelling thereof..... FENCES, (boundary) meaning of the term..... " must be constructed or repaired on the order of the rural inspector..... " penalty in case of refusal..... " notice required, if the cost would be equal to that of a new fence..... " no complainant is entitled to compensation for damages by stray animals, if occasioned by the defect or absence of his own boundary fences.... BERRIES are under the control of the corporation of the local municipality in which they are situated.... " when are under the joint control of the local cor- porations..... " are under the superintendence of the rural inspec-	712 903 649 901 475 (460) 601 612 613 617 774 775 775 776 838 541 (460) 19 & 28 425, 425a 427 426 443 860 861
---	--	--	--

**FERRIES :—**

tor unless the council has placed them under another officer .....	377
" obstructions found therein must be removed .....	386
" what is deemed an obstruction .....	387
" penalty for placing obstructions therein .....	391
" must be inspected by the road inspector between the 1st and 15th of June and October in each year, and moreover, whenever required by the council or the mayor .....	404
" the council may, by by-law or resolution, and on certain conditions, permit the execution of dangerous works thereon .....	476
" the local council may regulate them .....	549
" may by by-law determine the amount to be paid and the conditions to be observed for a ferry license .....	549
" may by by-law fix or approve of the tolls payable thereon .....	550
" the tolls payable and the advantages given by such by-laws must be uniform .....	551
" licenses must not be given for more than twelve months .....	552
" when the by-law must be approved by the council of another municipality, or in default thereof, by the lieutenant-governor .....	553
" by whom is the license given in any such case .....	863
" to whom does the money, arising from licenses given by the lieutenant-governor, belong .....	864
" penalty for carrying on the occupation of ferryman without a license .....	862
" no license can be granted within the limits for which a privilege has been conferred on the owner of a toll-bridge .....	865
" which are not governed by the provisions of this code .....	866
<b>FILTH</b> , the town or village council may, by by-law, prohibit the throwing of, on public roads or lanes, or order its removal .....	643
<b>FINES</b> , See <b>PENALTIES</b> .	
<b>FIRES</b> , the town or village council may make by-laws for their prevention .....	653 to 667
" any such council may, by by-law of resolution buy engines, &c. ....	663
" in the woods the county council may, by by-law, determine the time during which fire may be applied to land for clearing purposes .....	523
" in the open air, the local council may, by by-law, prevent the lighting of, in certain localities .....	594

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# MUNICIPAL CODE.

479

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594

377  
386  
387  
391  
404  
476  
549  
549  
550  
551  
552  
553  
863  
861  
862  
863  
866  
643  
667  
663  
523  
594

FIRE-ARMS, the local council may, by by-law, prohibit the discharge of fire-arms in certain localities.....	594
FIRE-CHACKERS, the discharge of, may be forbidden in certain localities by by-law of the local council.....	594
FIRE-ENGINES, the town or village council may, by by-law or resolution, buy fire engines, &c.....	663 (460)
FIRE-MEN, <i>See</i> FIRE COMPANIES.	
FIRE-COMPANIES, may be established and governed by by-laws of the local council.....	610
FIRE-WORKS in certain localities may be prohibited by by-law of the local council.....	594
FISH, (fresh), the sale thereof may be regulated by the town or village council.....	629
" <i>See</i> MARKETS, (public).	
FLOOD-GATES, cannot be demolished because they are obstacles to a water-course.....	880
FORDS, the council may, by by-law or resolution, authorize on certain conditions, the construction of certain dangerous works thereon.....	476 (460)
" the local council may, by by-law, cause them to be levelled and cleaned.....	533
" are a part of the municipal roads on which they are situated.....	777
" how kept.....	777
" must be marked out by guide-poles.....	777
" <i>See</i> ROADS (municipal).	
FORM, objection to the, <i>See</i> OBJECTION.	
FORMS which may be used.....	13
FORMALITIES omitted, <i>See</i> OBJECTION.	
" essential, if not observed the election of a mayor or local councillor, the election may be contested.....	346, 347
FRAUD, if employed in the election of a mayor or local councillor, gives rise to contestation of the election.....	346, 347
FUNCTIONARIES, (civil), are exempt from municipal offices....	209
" their salaries or the value of their offices are taxable property.....	710
FUNDS of the corporation, <i>See</i> MONEYS OF THE CORPORATION.	
" (general), may be employed for any purpose within scope of the functions of the council.....	502
" (sinking) may be established and managed by by-law or resolution.....	503 (460)
" of at least two per cent must be provided in the event of a loan or an issue of debentures.....	495
FURNACES, <i>See</i> OVENS.	
" the town or village council may, by by-law, prescribe the mode of making furnaces, and regulate their use.....	653

**FURNACES :—**

“ for making charcoal, the town or village council may, by by-law, prevent or regulate their construction.....	661
<b>GALLERIES, See ERECTIONS.</b>	
<b>GAMBLING</b> may be suppressed by by-law of the local council	598
“ houses or houses of ill-fame may be suppressed by by-law of the local council.....	598
<b>GAOLERS,</b> are exempt from municipal offices.....	209
<b>GARDENS,</b> no county or rural council can lay down a road through gardens of a certain kind without the written consent of the owner.....	904
<b>GASPE,</b> the valuation roll is made in this county in February and March.....	712
<b>GAS-WORKS</b> may be regulated by the town or village council.....	649
<b>GOOD MORALS, See DECENCY.</b>	
“ may be regulated by the local council.....	597 to 606
<b>GOVERNMENT,</b> property owned or occupied by, is not taxable	712
“ no council can lay down roads through any such property without a consent in writing.....	905
<b>GRAIN, See PUBLIC MARKETS.</b>	
<b>GRATES,</b> the town or village council may, by by-law, regulate the manner in which they are to be put up and used.....	653
<b>GRAVES, See BURIAL GROUNDS.</b>	
<b>GROCERIES, See PLACES, (unhealthy and unwholesome.)</b>	
<b>GUIDE-POLES, See BALIZES.</b>	
<b>GUIDE-POSTS, See POSTS.</b>	
<b>GUNPOWDER,</b> storage of, by-laws of the local council respecting it.....	573 to 578
“ may be confiscated in virtue of a by-law, if kept contrary to by-law.....	577
“ the town or village council may, by by-law, prevent the sale thereof, after sunset.....	660
<b>HANDRAILS,</b> must be set up in dangerous places on municipal roads.....	788
“ must be set up on municipal bridges.....	853
<b>HARBOURS,</b> may be acquired by the council, by by-law or resolution.....	487 (460)
<b>HAY-LOFTS, See FIRES.</b>	
<b>HEAD OF THE COUNCIL,</b> to whom applied.....	19 § 11
“ may be appointed by the council, even after the prescribed delay, unless the lieutenant-governor has done so.....	101
“ <b>See MAYOR, MEMBER OF THE COUNCIL, WARDEN.</b>	
“ superintends the officers of the corporation and sees to the execution of the by-laws and orders of the council.....	121

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HEDGES ON M

“ See R

HIGHWAYS ARE

## HEAD OF THE COUNCIL :—

uncil		" communicates any information or suggestion to the	
con-		council which he deems advisable.....	121
.....	661	" signs, seals and executes all deeds of the corpora-	
		tion, unless the council provide otherwise.....	122
uncil	598	" reads to the council all communications from the	
d by		government and makes them public, if required.	123
.....	598	" furnishes the government, if required, with all in-	
.....	209	formation he can give, with the concurrence	
road		of the council.....	124
the		" is <i>ex-officio</i> a justice of the peace, his powers as	
.....	904	such.....	125
bru-		" cannot decide cases in which the corporation or	
.....	712	its officers are interested.....	125
lage		" may, at any time, convene a special session of the	
.....	649	council.....	126
.....	597 to 606	" presides over the sessions of the council.....	131, 132, 134
able	712	See PRESIDING OFFICER OF THE COUNCIL.	
such		" accepts, in the name of the corporation, the surety-	
.....	905	bond of the secretary-treasurer.....	149
, re-		" certificate of discharge, when given by him to the	
put		sureties of the secretary-treasurer.....	153
.....	653	" consent to discharge of hypothec given by the	
		sureties of the secretary-treasurer, when signed	
		by him.....	154
		" may authorize the secretary-treasurer, to pay sums	
		of money not exceeding ten dollars.....	160
		" must, in default of the secretary-treasurer, give	
		notice to the lieutenant-governor of neglect on	
		the part of the council to make any appointment	178
uncil	573 to 578	" signs the original of every municipal by-law.....	457
kept		" signs the certificate establishing the approval of	
.....	577	any by-law, when such by-law must be approved	
pre-		before having effect.....	686
.....	660	" may oblige the secretary-treasurer to deposit the	
uni-		funds of the corporation in a bank.....	500
.....	788	" accepts contracts for public works, unless some	
.....	853	person has been specially authorized for that	
w or		purpose by the council.....	895
...487 (460)		" may order any constable or police officer to arrest,	
		at sight, all persons infringing a by-law, if so	
		ordered by the by-law.....	1060
.....19 § 11		HEAD OF A CORPORATION } See HEAD OF THE COUNCIL.....	9 § 11
the		" MUNICIPALITY. }	
rnor	101	HEBERTVILLE, the local council of, possesses the powers of	
.....		a county council.....	1081
and		HEDGES on municipal roads, must not be levelled in winter.	836
ders		" See Roads.	
.....	121	HIGHWAYS are included in the work roads.....	19 § 27

HOLES, municipal reads must be kept from.....	788
HOLIDAYS, if the day fixed for an ordinary session of the council falls on a holiday the session is held on the next following juridicial day.....	129
" special notices may be served on, except at places of business .....	229
" the local council may prohibit horse racing on holidays.....	601
HOMOLOGATION of the <i>procès-verbal</i> notice.....	808
HORSE RACES. <i>See</i> RACES.	
HORTICULTURE, (aid to) in the municipality, may be granted by by-law or resolution of the council .....	484 (460)
HOTEL-KEEPERS are disqualified for municipal offices.....	203
HOUSES, the local council may, by by-law, prevent the posting up, marking or writing of indecent placards paintings, etc., on houses .....	604
" (roofs of) the town or village council may, by by-law, cause snow or ice to be removed therefrom.	644
" the town or village council may, by by-law, oblige owners to have ladders from the ground to the roof, and thence to the top.....	654
" the town or village council may, by by-law, cause houses to be numbered .....	609
" cannot be thrown down or injured by any county or rural council without the written consent of the owner.....	904
HOUSES of detention. <i>See</i> LOCK-UP HOUSES.	
" refuge. <i>See</i> POOR-HOUSES.	
" ill-fame. <i>See</i> GAMBLING-HOUSES.	
" public entertainment. <i>See</i> TAVERNS.	
HUCKSTERS may be regulated by the town or village council	634
HUNTINGDON, (county of), the works on roads and bridges are at the cost of the local corporations.....	1080
HYPOTHEC given by the security-bond of the secretary-treasurer.....	148 and fo.
IMPROVEMENTS included in the word "real estate" or "land".....	19 & 24
INCAPACITY, the appointment of any mayor or local councilor may be contested on the ground of incapacity.....	346, 347
INCOME, the annual professional income of advocates, notaries, pilots, physicians, surgeons, dentists, civil engineers and provincial land surveyors is taxable property .....	710
INDECENT words, etc., the local council may, by by-law, prevent the posting up or writing thereof on houses, walls, etc.....	604
INDEMNITY to the warden and to members and delegates of the county council, for their travelling expenses and board, may be allowed by by-law.....	524

INDEMNITY

" to

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INFORMATION

INNS. *See*

INSCRIPTION

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## INDEMNITY :—

- “ to sufferers by riots, may be allowed by by-law or resolution of the local council ..... 586 (460)
- “ to persons whose property has been expropriated, *See* EXPROPRIATION.

INFORMATION, a deposition under oath, on behalf of any municipal corporation, by whom given..... 8

INNS. *See* TAVERNS.

INSCRIPTIONS on municipal roads, penalty for injuring or damaging them..... 792

“ (indecent) the local council may, by by-law, prevent the writing thereof in certain localities..... 604

INSPECTOR, (ROAD), *See* OFFICER (municipal), OFFICERS (municipal).

“ for every road division is appointed by the local council every year, in the month of March..... 365

“ when enters upon the discharge of his duties..... 366

“ time during which he remains in office..... 366

“ penalty for refusing to accept or to continue his office..... 367a

“ superintends works to roads, sidewalks and bridges..... 376, 539, 785, 858

“ superintends ferries..... 377

“ over whom his jurisdiction extends..... 378, 539

“ how replaced during any temporary incapacity..... 379

“ is an officer of the county as to county works under his superintendence..... 380

“ penalty for refusal or neglect to act..... 381

“ his powers and duties when the works to roads or bridges are in common..... 382 to 384

“ has under his charge the snow-ploughs, rollers, scrapers, &c., and may cause them to be used on municipal roads..... 385

“ causes the removal of nuisances, &c, from the works under his charge..... 386 to 391

“ makes a report to the council respecting any encroachments on the public works of the corporation..... 392

“ may enter upon any land for the purpose of making a survey or searching for materials..... 393

“ may authorise any person to do likewise..... 393

“ may enter upon unoccupied lands and take certain materials..... 394

“ damages in any such case..... 395, 396

“ may perform works or furnish materials which have not been performed or furnished within the prescribed delays..... 397

“ or must inform the council, which may authorize..... 397

## INSPECTOR, (ROAD):—

- him to do the work or furnish the materials at the cost of the corporation ..... 399
- “ the value thereof, together with twenty per cent in addition thereto, may be recovered from the parties in default..... 398, 401, 402
- “ in any suit brought for the recovery thereof, his evidence, if uncontradicted, is sufficient proof... 403
- “ cannot without authorization, do work or furnish materials for any sum exceeding five dollars in any one year, without previously notifying the parties in default..... 397
- “ must whenever he has, without authorization done work, or furnished materials, give immediate notice to the parties in default..... 397
- “ exception in favor of certain companies as to such works..... 21, 22
- “ See COMPANIES (iron or wooden railway).
- “ when must he inspect the works under his superintendence and make a report thereof to the council..... 404
- “ prosecutes, in the name of the corporation, any person in default..... 404
- “ prosecutes the corporation when the works to roads and bridges are at its cost..... 539
- “ must in case of urgent necessity, on the authorization of the mayor, repair any dangerous bridge or make a temporary one..... 405
- “ may be authorized, by by-law, to allow dangerous works to be carried on, on the highway..... 476
- “ gives out to the lowest tender, every year in the month of October, the winter work to by-roads and bridges not governed by by-laws or *procès-verbaux* ..... 828, 856
- “ and for the summer work, in the month of April. 828, 856
- “ levies on the persons liable for such work, the cost thereof, by means of an act of apportionment made by himself, with the approval of the council..... 827, 856
- “ selects the localities for winter roads..... 832
- “ lays out winter roads on by-roads before the first of December..... 832
- “ winter roads, how and where laid out. 832, 833, 835, 840, 845 .....
- “ See ROADS (municipal) BRIDGES (municipal).
- “ may be required by the council or the board of delegates to superintend the execution of their works given out by contract..... 901

## INSPECTOR

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- “ See Co

INSPECTOR (RURAL) *See OFFICES (municipal) OFFICERS (municipal).*

- " for every rural division is appointed by the local council, every year, in the month of March..... 365
- " when enters upon the discharge of his duties..... 366
- " penalty for refusing to accept or continue his office ..... 367a
- " time during which he remains in office..... 366
- " duties which he must fulfil..... 406, 873
- " over whom his jurisdiction extends..... 407 (378)
- " how replaced during any temporary incapacity..... 407 (379)
- " is a county officer as to county works under his superintendence ..... 407 (380)
- " penalty for refusal to perform any duty..... 407 (381)
- " his powers and duties when works to a water-course are in common ..... 407 (382 to 384)
- " superintends and directs works to water-courses 406, 873
- " if personally interested, cannot superintend the opening of a water-course ..... 874
- " must inspect water-courses every year between the first and fifteenth of June, and see that the necessary works have been performed..... 876
- " must inspect water-courses at any time between the fifteenth of June and the first of November when requested, by any person interested, by the council or by the board of delegates..... 876
- " may order work on water-courses obstructed by snow or ice..... 877
- " may perform work and furnish materials when the same have not been performed or furnished within the prescribed time..... 408 (397)
- " or must report to the council, which may authorize him to do such work or furnish such materials at the cost of the corporation..... 408 (399)
- " the value thereof, together with twenty per cent in addition thereto, may be recovered from the parties in default..... 408, (398, 401, 402)
- " in any suit brought for the recovery thereof, his evidence, if not contradicted is sufficient proof 408 (403)
- " cannot without authorization perform work or furnish materials for a sum exceeding five dollars in any one year, without giving previous notice to the parties in default..... 408 (397)
- " must whenever he has without authorization performed work, or furnished materials, give immediate notice to the parties in default..... 408 (397)
- " exception in favor of certain companies as to such works..... 21, 22
- \* *See COMPANIES, (iron or wooden railway.)*

## INSPECTOR (RURAL);—

“ the inspector of which division acts when the locality is situated in several divisions.....	409
“ his fees in certain cases; how and by whom paid	410
“ must be reimbursed his expenses and costs; by whom paid.....	410
“ his service are given gratuitously, when required by the council.....	412
“ special notices and orders; how given.....	412
“ may require any tenant or occupant to perform works on water courses, clearance and boundary ditches and fences, saving his recourse against the owner.....	413
“ must, on being authorized, do any work necessary for the prevention of floods.....	414
“ must remove any filth or dead animals deposited on any property or in any water-course or river..	415
“ his duties and powers as to clearances.....	417, 418
“ do do as to boundary ditches ..	420 to 424
“ do do as to boundary fences....	425 to 427
“ may authorize an excavation in any public road for the passage of a water-course.....	833
“ Such excavation may be pointed out both by day and night.....	883
“ a bridge must be thrown over such excavation within forty-eight hours.....	883
INSTITUTIONS, (charitable), may be assisted by the local council by-law or resolution.....	591 (460)
“ religious, charitable or educational; their property is not taxable.....	712
“ no council can lay down a road through the property of any such institutions without their written consent.....	905
INSUFFICIENCY in setting forth the qualities of any officer or person to any act, or in the designation of the corporation, or of the act itself or of the municipality, is not a cause of nullity if no surprise or injustice result therefrom.....	15
INTERESTED PARTY, member of the council who is interested, See MEMBER OF THE COUNCIL.	
ISLE AU COUDRES, (municipality of) possesses the powers of a county Council.....	1081
JOURNEYMEN, See MASTERS, SERVANTS.	
JUDGES of the court of Queen's bench are disqualified for municipal offices.....	209
“ of the vice admiralty court...do.....	203
“ of the superior court.....do.....	203
“ of the superior court no appeal lies in municipal matter from their judgments.....	1077

JUDGES

“

JURISDI

JUSTICE

“

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“

KEEPERS

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LADDERS

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LAND-SURV

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LANGUAGE,

“

“

“

# MUNICIPAL CODE.

487

## JUDGES :—

" the salaries of judges are taxable property..... 710

JURISDICTION of the head of the council, acting *ex-officio* as justice of the peace..... 125

JUSTICES OF THE PEACE, any oath required by the provisions of this code may be made before them..... 6

" penalty and responsibility incurred by their refusing to act under this code..... 9

" the term refers also to the head of the council acting *ex-officio*..... 19 § 13

" are exempt from acting as rural or road inspectors, or as pound keepers..... 367

KEEPERS, of houses of confinement or correction, or of reformatories are exempt from municipal offices... 209

" of houses of public entertainment are disqualified for municipal offices..... 203

LADDERS, the town or village council may by by-law, order that houses be provided with ladders..... 654

LAND, meaning of the word..... 19 § 24

" beach lots may be acquired by the council by by-law or resolution..... 485 (460)

" along the roadside, the local council may, by by-law compel owners to fence such land..... 612

" on which is stagnant water, the town or village council may, by by-law, compel owners to drain such land..... 652

" the town or village council may, by by-law, cause lots situated on roads to be numbered..... 669

" occupied by a municipal road, to whom does it belong ..... 749 752

" of a discontinued road, to whom does it belong.... 753

" acquired or set apart, for squares, &c., in any village or municipality, belongs to the council. .... 767

" crown lands are not liable for work to municipal roads, bridges or water-courses; but the occupants thereof are..... 780, 858, 878

" low and swampy drainage of..... 882

" no indemnity is allowed for the first front road on a lot..... 906

" no indemnity is allowed for the land reserved for a public road in the concession of a lot..... 906

LAND-SURVEYORS (provincial) practising their profession are exempt from municipal offices..... 209

" their annual income is taxable property..... 710

LANGUAGE, in which language must special notices be drawn up and given..... 224

" which, may be used by the council in session..... 241

" the books, &c., of the council are kept in French or in English..... 242

## LANGUAGE :—

- " the publication of notices, by-laws or orders of the council is made in both languages, unless the lieutenant-governor in council issues an order to the contrary ..... 243
  - " order of the lieutenant-governor in council, prescribing the use of one language only ; how given, its effect..... 244, 245
  - " previous public notice must be given before the council can adopt a resolution requesting such an order from the lieutenant-governor in council. 244
  - " the order in council must be published in the *Official Gazette*..... 245
  - " (obscene or blasphemous), may be suppressed in certain localities by by-law of the local council. 603
- LESSEE, *See* TENANT.
- LICENSES, (ferry), may be regulated by the local council..... 549, 551 to 553
- " (trading) may be regulated by the local council..... 582
  - " limitation of their number..... 568
- LIEUTENANT-GOVERNOR, proceedings taken by him for the erection of a village municipality..... 51, 61, 62
- " may, by proclamation, erect a village municipality into a town municipality..... 68
  - " may, by proclamation, on a petition to that effect, annex a town or village municipality or any part of it to an adjoining local municipality..... 74
  - " municipal officers when appointed by him..... 177
  - " what persons can he appoint to offices in the council..... 180, 327
  - " may revoke any appointment made by himself.... 181, 329
  - " may replace any person appointed by himself..... 181, 329
  - " the warden ; when appointed by him..... 250
  - " the county delegates when appointed by him..... 264
  - " the local councillors : when appointed by him... 326 to 329
  - " must, when all the local councillors are unable to read and write, replace one among them by some person able to read and write..... 336
  - " vacancies in the council ; when filled by him 340, 344, 364
  - " must fill vacancies when less than four councillors remain in office..... 341
  - " (*in council*) approves by-laws..... 687 to 690
  - " may divide a town or village municipality into wards, if the council refuse to ..... 633a
  - " may exact from the council all information and documents respecting the by-law ..... 688
  - " must not approve of a by-law until he has proof that the necessary formalities have been observed.... 689

LIEUTENANT

"

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LIGHT, in

LIMITS of

LIQUOR, (

"

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"

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"

"

"

"

"

"

LOANS, the

"

See



## LIEUTENANT-GOVERNOR :—

- “ by-laws which must be approved by him.....479, 480, 492  
493, 520, 521, 542, 553
- “ may require the insertion in the valuation roll  
of any details respecting the census and statis-  
tics..... 724
- “ valuator for making the valuation roll, when  
appointed by him.....728, 731
- LIGHT, in town or village municipalities; may be attended  
to by by-law of the council.....638 to 640
- LIMITS of a municipality bounded by a river, extend to  
the middle of the river..... 19 § 1
- LIQUOR, (intoxicating or strong), meaning of the term.....19 § 31
- “ the sale thereof, in quantities less than three gal-  
lons or twelve bottles, may be prohibited by by-  
law of the local council..... 561
- “ any such by-law, or one for repealing the same,  
only comes into force on the first of May then  
next..... 562
- “ a copy thereof must be previously sent to the col-  
lector of inland revenue..... 562
- “ the collector of inland revenue cannot, in the case  
of a prohibitory by-law, grant licenses..... 563
- “ if a prohibitory by-law is annulled, the local coun-  
cil may make another within two months..... 564
- “ licenses issued in contravention of a prohibitory  
by-law are null..... 565
- “ penalty for infringing such by-law..... 566
- “ exempt for medicinal or other purposes and on de-  
livery of a medical certificate..... 566
- “ obligations contracted and payments made in con-  
travention of such by-law are null..... 567
- “ the local council may, by by-law, limit the num-  
ber of licenses to be granted.....568, 569
- “ any such by-law is suspended on the passing of a  
prohibitory by-law..... 570
- “ prohibitory and restrictive by-laws of a rural  
council are not subject to appeal to the county  
council..... 571
- “ repeal of certain by-laws, from the month of May  
next after the coming into force of the code..... 572
- “ the local council may, by by-law, prohibit the  
sale thereof to children, apprentices or servants,  
without the consent of fathers, mothers, mas-  
ters, &c..... 606
- “ spirituous or malt. See LIQUOR (intoxicating or  
strong).
- LOANS, the council may, by by-law, contract loans.....492 to 498
- “ See DEBENTURES DEBTS, (municipal).

- LOCAL, meaning of the word when applied to "municipality," "corporation," "council" or "councillor"..... 19 § 3
- " council. *See* COUNCIL
- LOCK-UP-HOUSE may be established by by-law of the local council ..... 609
- LOT, meaning of the word..... 19 § 25
- " includes the subdivisions made since the oldest title that is to be found..... 19 § 25
- LUMBER. *See* WOOD
- MACHINERY worked by steam may be prohibited, allowed or regulated by the town or village council..... 648
- MAGDALEN islands, (municipality of), possesses the powers of a county council..... 1081
- " exceptional provisions respecting the holding of polls therein ..... 1085
- MAGISTRATES, (district,) are disqualified for municipal offices..... 203
- " their decision are not appealable and cannot be removed by *certiorari*..... 1077, 1078
- " (police,) are disqualified for municipal offices..... 203
- " COURT, *See* COURT.
- MAIL, when may a notice be given by it..... 226, 227, 260, 269
- " *See* NOTICE.
- MANUFACTORIES..... 649, 651
- " water-courses which feed them cannot be diverted by any council without the written consent of the owner..... 905
- MAP, *See* PLAN.
- MAPLE-GROVES, *See* MAPLE-TREES.
- " no county or rural council can run a road through certain maple groves without the written consent of the proprietor..... 904
- MAPLE-TREES forming part of a maple grove must not be cut down in virtue of a *procès-verbal*..... 802
- " *See* CLEARANCES.
- MARK, any person unable to write or sign his name must affix his mark..... 12
- MARKETS, (public,) in town or village municipalities... 625 to 636
- " by-law or resolution respecting their establishment, &c..... 625 (460)
- " by-law or resolution respecting the leasing of stalls thereon..... 625 (460)
- " by-law respecting the duties and powers of employees..... 626
- " prohibition to sell certain articles elsewhere than on markets or in stalls..... 627, 628
- " the conduct of buyers and sellers..... 630

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## MARKETS :—

" duties on persons selling or on their vehicles.....	631, 632
" the manner of placing vehicles .....	633
" hucksters and other traders .....	634
" the confiscation of articles sold in contravention of by-laws.....	636
MARINERS are exempt from municipal offices .....	209
MASKINONGE, county of, responsibility for damages result- ing from improper maintenance of winter roads.....	872a
MASTERS, in town and village municipalities the council may regulate the conduct of masters towards their servants.....	624
" in town and village municipalities, in the absence of a by-law, the provisions of law in force in rural municipalities respecting masters and ser- vants, are applicable .....	624
" See SERVANTS.	
MAYOR, See HEAD OF THE COUNCIL, MEMBER OF THE COUNCIL.	
" any oath required by this code may be made before a mayor.....	6
" under what name may be designated.....	281
" must give public notice for the election of coun- cillors.....	294, 362
" penalty for neglect to give such notice.....	295
" must be appointed at the first session after each general appointment of councillors.....	330
" if not present at his appointment, must be notified thereof, the warden must also be notified.....	331
" the appointment of, may be made by the lieuten- ant-governor, if the council neglects to do so within the prescribed delay .....	332, 344
" time during which he remains in office.....	333
" penalty for refusing to accept the office .....	334
" must know how to read and write.....	335
" vacancy in the office of.....	342 to 344
" during vacancy or absence, the duties may be dis- charged by a pro-mayor .....	345
" contestation of the appointment of.....	347 and fol.
" must, whenever the rural or road inspector is inca- pable of acting, place the division in charge of another inspector should the council neglect so to do.....	379, 407
" may require the road inspector to visit the works under his direction, prosecute parties in default and make a report.....	404
" may, whenever a bridge is destroyed or broken, in case of urgent necessity, authorize the road in- spector to repair it or make a temporary one.....	405

## MAYOR—

" of a town or village municipality, may authorise the destruction of buildings in order to arrest the progress of a fire .....	665
" presides at the meeting of electors held for the approval or disapproval of a by-law .....	677
" cannot vote when presiding at such meeting,.....	679
" duties and powers when presiding at such meeting .....	680, 682, 683
" must inform the lieutenant-governor of neglect on the part of the valuers to make the valuation roll .....	727
" to the county council .....	739
" signs warrant of seizure and sale for taxes .....	963
" may, by authorization of the council, become the purchaser of immoveables sold for taxes.....	1005
MEAT the town or village council may regulate its sale...	627, 628
" See MARKET (public),	
" meeting of municipal electors.....	307
MEMBER OF THE COUNCIL (local or county) meaning of the term .....	192 12
" must make oath as soon as he is appointed .....	108
" manner in which he enters upon the discharge of his duties .....	111
" cannot hold subordinate offices .....	114
" is a competent witness in any case in which the rights of the corporation are in question.....	7
" attendance at sittings of the council or of committees may be regulated by the council .....	465
" See OFFICE, (municipal) COUNCILLOR, MAYOR, WARDEN.	
" may administer an oath or affirmation to all parties and their witnesses examined by the council.	98
" cannot be surety for an officer of council.....	115
" time during which he remains in office when appointed in the place of another .....	116, 363
" when deemed to have refused to perform the duties of his office.....	118
" whose office is vacant, may resume his duties.....	119
" any vote given or act performed by a person illegally filling the office of member, is not invalid by reason of such illegality.....	120
" a special session of the council may be convened at any time by two members.....	126
" may give any information or deposition under oath required by the corporation .....	8
" interested in any question cannot take part in the discussion .....	135
" If a majority of them are interested.....	136

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**MEMBER OF THE COUNCIL:—**

" may order any constable or police officer to arrest, at sight, any person infringing a by-law, if it is ordered by the by-law .....

**MEMBER OF THE COUNTY COUNCIL**, an indemnity for board and travelling expenses may be allowed by by-law... 1060

" See **MEMBER OF THE COUNCIL** (local or county). 254

**MEMBER OF THE LOCAL COUNCIL**, must be domiciled in the municipality or in an adjacent city, town or village municipality..... 283, 284

" must own real estate to the value of four hundred dollars..... 283

" the person presiding at the election of, cannot be elected councillor..... 285

" contestation of the appointment of..... 346 to 364

" See **MEMBER OF THE COUNCIL** (local or county.)

**MEMBERS** of the privy council are disqualified for municipal offices..... 203

" of the senate are exempt from municipal offices..... 209

" of the house of commons..... 209

" of the executive council..... 209

" of the provincial legislature..... 209

**MERCHANT**, See **TRADER**.

**MILE-POSTS**, See **POSTS**.

**MILL**, cannot be demolished or injured by any county or rural council without the written consent of the owner..... 904

" any water-course which supplies a mill cannot be diverted by any council without the written consent of the owner..... 905

**MILLERS** when employed alone are exempt from municipal offices..... 209

**MINORS** are disqualified for municipal offices..... 203

" See **SERVANTS**

**MINUTES** of the sittings of the council, by whom approved of and signed..... 157

**MISSISSQUOI**, (county of,) the works on roads and bridges are performed at the cost of the local corporations 1080

**MONEYS** of the corporation, by-law or resolution of the council respecting their deposit..... 499 (460)

" in the absence of a by-law or resolution, are temporarily deposited..... 500

" not specially appropriated, form part of the general fund..... 501

" the excess of any levy forms part of the general fund..... 501

" forming part of the general fund may be employed for any purpose..... 502

MONTE, means a calendar month.....	19 § 29
MONTMORENCY, the county of, forms two county municipalities.....	1081
MOORING, <i>See</i> ANCHORAGE.	
MUNICIPAL OFFICES, <i>See</i> OFFICE (municipal.)	
MUNICIPAL OFFICERS, <i>See</i> OFFICERS (municipal.)	
MUNICIPALITY : local, rural or county, definition of the terms .....	19 § 1, 2, 3
“ (COUNTY,) what territory forms a county municipality; its name .....	24, 25
MUNICIPALITIES, (LOCAL) continuation of existing.....	26, 49
“ erection of .....	26 to 77
“ the council may, by by-law, have maps, plans or surveys made thereof.....	554
“ the council may, by by-law or resolution, divide them into road divisions.....	555 (460)
“ the council may, by by-law or resolution, divide them into rural divisions.....	556 (460)
“ parish, what territories form .....	29, 32
“ parish, their name .....	34
“ of part of a parish, their name .....	34
“ of part of a parish, what territories form .....	31, 32
“ parish, or of part of a parish, erected into a township by the county council with the approval of the lieutenant-governor in council.....	32, 41
“ township, their name .....	38
“ township, what territories form .....	35
“ of part of a township, their name.....	38
“ of part of a township, what territories form .....	37
“ of part of a township erected by the county council .....	37a
“ of united townships, their name.....	40
“ formed by the county council.....	39
“ date of their formation.....	40
“ village continuation of existing .....	49
“ new village, their erection and name.....	51 to 67
“ of what territories may be formed .....	51
“ petition praying for their erection .....	52
“ appointment of a special superintendent .....	52
“ visit, hearing and examination of the special superintendent .....	53
“ the report of the superintendent is deposited at the office of the council together with a plan of the territory .....	54, 55
“ notice of such deposit is given by the secretary-treasurer of the county council.....	56
“ homologation or rejection of the report.....	57 to 59
“ transmission of the documents by the secretary-treasurer to the provincial secretary.....	60

## MUNICIPALITY

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## MUNICIPALITIES :—

..... 19 & 29	proceedings of the lieutenant-governor in council	61, 62
..... 1081	proclamation of the lieutenant-governor, its publication and effect	63 to 65
	name of the municipality	62 to 67
	town, (new) erected by proclamation of the lieutenant-governor in council	68
the	publication and effect of the proclamation	69
19 & 1, 2, 3	their name	71
pal-	town or village, may be, the whole or a part of any, annexed to an adjoining local municipality by proclamation of the lieutenant-governor, on petition to that effect	74 to 77
..... 24, 25	the town or village council may by by-law divide the municipality into wards for purposes of representation in the council	617
..... 26, 49	this council must make the division upon special petition, otherwise the lieutenant-governor may divide	623a
..... 26 to 77	NAME of municipal corporations	3
s or	of county municipalities	24
..... 554	of local municipalities, (existing)	26
vide	of rural municipalities, (new)	34, 38, 40
..... 555 (460)	of parish municipalities or municipalities of part of a parish	34
vide	of township municipalities or municipalities of a part of a township	38
..... 556 (460)	of municipalities of united townships	40
..... 29, 32	of village municipalities, (existing)	49
..... 34	of village municipalities, (new)	62, 67
..... 31, 32	of town municipalities	71
own-	of the municipal council	94
oval	any person who cannot sign his name must make his mark	12
..... 32, 41	NEWSPAPERS published in one language only; no notice can be inserted therein in both languages	237
..... 38	NOTARIES practising their profession are exempt from municipal offices	209
..... 35	their annual income is taxable property	710
..... 38	NOTICES, (municipal), are special or public, written or verbal	215
..... 37	what they must contain	216
ncil 37a	by whom must copies be attested	218
..... 40	certificate of the publication or service of the notice	219, 220
..... 39	the original and the certificate must be filed in the office of the council	219
..... 40		
..... 49		
..... 51 to 67		
..... 51		
..... 52		
..... 52		
er-		
..... 53		
the		
the		
..... 54, 55		
ry-		
..... 56		
..... 57 to 59		
ry-		
..... 60		

## NOTICE, :—

" if the notice is verbal, an affirmation under oath takes the place of the certificate, and is only required in case of contestation .....	221
" when a person cannot avail himself of any irregularity in a notice, or in its publication or service...	223
" cannot be published in French and in English in a newspaper published in one language only....	237
" (special), in what language must they be drawn up or given.....	224
" manner in which the service of a special notice in writing is effected.....	225, 226
" manner in which a special verbal notice is given...	227
" cases in which notices may be sent by post.....	226, 227, 260, 269
" an absent proprietor who has neither appointed a resident agent, nor made his address known is not entitled to a notice.....	228
" when may be served.....	229
" may be served on holidays.....	229
" manner in which the service is effected if the doors are closed or if there is no reasonable person within.....	230
" date from which the delay runs.....	231
" an officer whose duty it shall be to serve special notices may be appointed in virtue of a by-law of the council.....	469
" (public), manner in which they are given.....	232 to 235
" when and where must they be read aloud.....	234
" effect of the omission to read a public notice aloud	234
" publication in the newspapers.....	236, 237
" the delay after the publication is seven clear days.	238
" date from which the delay runs.....	239
" are applicable to and binding upon absentees as well as residents.....	240
" publication of the notices of the meetings of the council may, in virtue of a by-law or of a resolution, be made in a newspaper.....	474, (460)
<b>Noxious WEEDS</b> on municipal roads, when must they be destroyed .....	778
<b>NUISANCES</b> on public highways must be removed by order of the road inspector.....	386
" what are deemed nuisances .....	377, 388
" any authorized work is not a nuisance.....	389
" conditions which must be observed in any such case .....	390
" penalty for causing any nuisance.....	391

## NUISANCES

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<b>NUMBERING</b>	
<b>OATH</b> requ	
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<b>OCCUPANT</b> , m	
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" of any	
32	

## NUISANCES :—

" on any property or in water-courses (filth or dead animals) must be removed .....	415
" penalty for causing any such nuisance .....	416
" (public,) by-laws respecting them, by the local council .....	592 to 596
" do. do. by the town or village council .....	641 to 652
" municipal roads must be kept free therefrom .....	788
" See DELETERIOUS MATTER, ROADS.	
NUMBERING of houses and lots in any town or village municipality. the town or village council may make by laws on this subject .....	669
OATH required by the provisions of this code, before whom may be taken .....	6
" is administered to the parties and their witnesses under examination by the council or the committees .....	98
" of office of members of the council .....	108 to 111
" neglect to take it, during fifteen days, constitutes a refusal of such office .....	112, 186
" a certificate attesting that it has been taken must be filed in the office of the council .....	187
" to be taken by any municipal elector, when required, before giving his vote .....	315
" to be taken by valuers and their clerk, respecting the valuation roll prepared by them .....	725
OATHS, (profane), the use of, may be suppressed in certain localities by by-law of the local council .....	603
OBJECTION to the form, or founded on the commission of any formality, when admitted .....	16
OBSTRUCTIONS, See NUISANCES.	
" at any ferry landing, what are deemed such .....	387
" on public highways, what are deemed such .....	387 to 389
" on public highways, town or village councils may make by-laws for their prevention .....	645
" fords must be kept free therefrom .....	777
" municipal roads do. do. ....	788
OCCUPANT, meaning of the word .....	19 to 19
" of crown lands—See PROPRIETOR .....	17 to 18
" may be obliged to do work connected with clearances, boundary ditches or fences and water-courses, saving his recourse against the owner. ....	413
" is answerable for any animal he receives on pasture .....	445
" may be compelled to pay the taxes imposed on land occupied by him, saving his recourse against the owner .....	948, 949
" of any lot of land divided after the passing of any	32

**OCCUPANT :—**

act regulating the work on roads, bridges or water-courses, are jointly and severally liable for such work, saving recourse.....781, 858, 878

**OFFICE OF THE COUNCIL, See COUNCIL.**

**OFFICE, (MUNICIPAL,)** meaning of the term.....19 & 15

- " any person qualified and not exempt, is bound to discharge the duties of any office to which he may be appointed; that of secretary-treasurer excepted..... 201
- " persons qualified for..... 202 to 284
- " disqualified.....155, 203 to 206, 283, 285
- " notice to be given by disqualified persons, who hold or have been appointed to any municipal office..... 207
- " until such notice is given, such persons are liable to all penalties and prosecutions..... 207
- " the appointment of a person notoriously disqualified may be annulled by the council..... 208
- " persons exempt from.....209 to 212, 305, 367
- " persons exempt, who have been appointed, must give notice claiming exemption.....213, 305
- " in default of so doing, the exemption is forfeited.213, 305
- " **See MEMBER OF THE COUNCIL, OFFICERS OF THE COUNCIL.**
- " (subordinate) members of the municipal council cannot hold any, under such council, or under the county council if they are members of a local council..... 114

**OFFICERS, (MUNICIPAL)** *See OFFICES (municipal) and the names of each of such officers.*

- " the council may appoint as many as it deems necessary..... 182
- " in office when the code comes into force, are continued therein..... 183
- " vacancies must be filled by the council within thirty days..... 184
- " appointment or removal by the council, how effected..... 185
- " appointment or removal by the lieutenant-governor.....177 to 181
- " oath of office, when taken..... 186
- " neglect so to do during fifteen days is deemed a refusal of the office..... 186
- " who have refused to accept office may reconsider such refusal..... 186
- " who have taken an oath of office must file a certificate thereof in the office of the council..... 187

**OFFICER**

"

"

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"

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"

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**OFFICERS, C**

## OFFICERS, (MUNICIPAL) :—

" no act, duty, writing or proceeding executed in his official capacity by any officer holding office illegally, is invalid by reason of such illegality.	188
" may be removed .....	181, 189
" time during which an officer appointed to replace another holds office .....	190
" who have ceased to discharge the duties of their office must deliver up everything belonging to such office .....	191
" in the event of absense or death, their representatives must deliver up everything belonging to the office which they held .....	192
" the corporation may have recourse to revendication and coercive imprisonment for the recovery of everything belonging to such office, from the person in their possession .....	193, 194
" their lawful orders must be obeyed ; penalty for neglect or refusal .....	195
" penalty for molesting a municipal officer in the exercise of his functions .....	195
" must give receipts for documents deposited in their hands .....	193, 196
" must file the documents deposited with them among the archives of the council .....	196
" when in greater number than two, the majority may act .....	197
" cannot be discharged or exempted from the performance of their duties by the council .....	198
" the corporation is responsible for their acts .....	199
" to whom are they responsible .....	200
" may make an oath, any deposition or information required from the corporation .....	8
" the council may make by-laws to define their duties and inflict penalties for their non-observance .....	470
" to establish a tariff of fees .....	471
" to fix their remuneration by the council .....	472
" to appoint an officer for the service of special notices .....	469
" to authorize them to visit and examine all property in order to ascertain whether the by-laws are carried out .....	507
" their tariff of fees, must be posted up in the office of the council .....	471
" this tariff may be made by resolution .....	471, (640)
OFFICERS, of the militia staff are exempt from municipal office .....	309

## OFFICERS :—

- “ of Her Majesty's army and navy, on full pay are disqualified for municipal office..... 203
- “ of the police are disqualified for municipal office... 203
- “ of the police. *See* CONSTABLE.

OMISSION of formalities. *See* OBJECTION.

- “ to set forth the qualities of any officer or person, party to an act, is not a cause of nullity, if no injustice or surprise result therefrom..... 15
- “ by any member or officer of the council, to take the oath of office within fifteen days, constitutes a refusal to accept such office..... 112, 136
- “ to give notice of the meeting for the election of local councillors, prevents such meeting from being held..... 295, 362
- “ to read any public notice aloud does not invalidate its publication..... 234
- “ to read any by-law aloud in public does not prevent its coming into force..... 693

OPENING in any road, *See* TRENCH.

OPPOSITION founded on a right of property or privilege, to the seizure and sale of any movables for municipal taxes, must be accompanied by a deposit of money..... 966

- “ how made, heard and adjudicated upon..... 966, 967

- “ may be made by any rate-payer whose effects are under seizure for an amount of taxes greater than he owes..... 970

ORCHARDS, no rural or county council can cause a road to be made through certain orchards without the written consent of the owner..... 904

ORDER of the lieutenant-governor in council, prescribing the use of one language only in the publication of documents of the council..... 244, 245

- “ such order must be published in the official gazette..... 244, 245

- “ of the lieutenant-governor in council respecting municipal matters may be revoked by another order in council..... 10

ORDERS, (existing), respecting municipal matters are continued in force..... 5

- “ of the council may be annulled by the magistrate's court or the circuit court..... 5, 100

- “ are executory until annulled..... 5 (461)

ORDURE, *See* FILTH.

OUTHOUSES, the local council may make by-laws respecting their cleanliness..... 22

- “ *See* FIRES.

OVENS,

OWNER,

PAINTING

PARKS,

PARISH,

“

“

“

“

“

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PARSONAGE

“

“

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PARTNER

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PENALTY

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# MUNICIPAL CODE.

501

are  
..... 203  
ce... 203

OVENS, the town or village council may, by by-law, prescribe the manner in which they must be built, and regulate their use..... 653  
OWNER, *See* ANIMALS FOUND STRATING, TENANT, OCCUPANT, PROPRIETOR.

PAINTINGS, *See* PLACARDS.

PARKS, *See* PUBLIC PLACES..... 543

PARISH, meaning of the word..... 19 2 4

" part of a, when must be annexed to an adjoining rural municipality..... 31

" or part of a parish included in any township may, with the approval of the lieutenant-governor, be erected into a municipality by the county council..... 32, 41

" *See* MUNICIPALITY.

PARSONAGE-HOUSES and their dependencies are not taxable property..... 712

" no council can lay out a road through them without the written consent of the owner..... 905

PARTNERSHIP, *See* PROPRIETOR.

PAY-BRIDGES, *See* BRIDGES.

PENALTY by a justice of the peace or any other person refusing or neglecting to act under the authority of this code..... 9

" for injuring, tearing down or destroying any document posted up..... 11

" for neglecting to attend as a witness when summoned by the council or the committees..... 99

" for refusing to discharge the duties of councillor..... 117

" for refusing to accept the office of warden..... 254

" for refusing to accept the office of mayor..... 334

" by the secretary-treasurer or president of the council for refusing a receipt to any one filing or producing a document, or for refusing to receive such document, or to deposit it in the archives of the council..... 103

" by the secretary-treasurer for lending moneys of the corporation or for giving a receipt without having received the amount therein specified..... 161

" by the secretary-treasurer for continuing to discharge the duties of his office without having given fresh security..... 151, 152

" by the secretary-treasurer for neglecting to notify the head of the council of the death, insolvency, failure or absence from the district of his sureties..... 152

" by the secretary-treasurer for neglecting to render account..... 167

" by the secretary-treasurer for neglecting to send the

son,  
f no  
..... 15  
take  
ates  
..... 112, 186  
n of  
rom  
..... 295, 362  
ate  
..... 234  
pro-  
..... 693

, to  
uni-  
it of  
..... 966  
..... 966, 967  
are  
ater  
..... 970  
d to  
the  
..... 904  
ing  
tion  
..... 244, 245  
cial  
..... 244, 245  
ing  
her  
..... 10  
..... 5  
te's  
..... 5, 100  
..... 5 (461)  
ing  
..... 22



## PENALTY:—

the	169	" taking away, without permission, any animal im-	
re-		pounded .....	439
laws		" for allowing animals to stray .....	440
of the		" by the county corporation for neglecting to repair	
.....	995	or build a vault or safe in the registry office .....	515
licer		" for selling intoxicating liquors in any municipality	
.....	381, 785	in which a prohibitory by-law is in force .....	566, 567
r for		" for voting for the approval or disapproval of a by-	
7 (381)	873	law submitted to the electors, when not qua-	
care		lified .....	680 (316)
.....	429	" by any person, whose duty it is, for neglecting to	
l im-		read aloud a by-law .....	693
.....	430	" by the owners of roads used by their permission,	
ded,	431	for refusing to close the same when ordered by	
.....	432	the council or by the board of delegates .....	249
form		" for refusing to give any information required by	
ty. 729, 730		the valuers respecting the value of property ...	745
the		" for refusing to perform work on public roads .....	791
inue		" for refusing to perform work on bridges .....	857 (791)
.....	367a	" for refusing to perform work on water courses ..	878 (791)
orders		" for injuring trees, posts, or other works on public	
.....	195	roads .....	792
a re-	195	" by corporations for not keeping roads and side-	
g to		walks in repair .....	793
.....	196	" by corporations for not keeping bridges in repair 858	(793)
mu-		" by corporations for not keeping water-courses in	
.....	234	repair, with the exception of those regulated by	
with-		an act of agreement .....	878 (793)
when		" for removing <i>balizes</i> on a winter road or for placing	
public		them improperly .....	834
.....	295, 362	" for driving any vehicle faster than a walk over	
.....	316	any bridge exceeding twenty feet in length, not	
.....		built of stone, brick or earth .....	859
.....		" for injuring any bridge, or work belonging thereto..	859
.....	390	" for carrying on the business of ferryman without	
.....	391	a license .....	862
.....		" for obstructing any water-course or allowing the	
.....		same to be obstructed .....	879
.....	416	PENALTIES, (certain kinds of), are municipal taxes .....	19 § 22
.....		" by municipal officers; how and by whom reco-	
.....	418	verable .....	200
.....		" may be inflicted by the council for infringement	
.....	423	of its by-laws, by fine or imprisonment or by	
.....	424	both .....	508
.....		" must be fully set forth in the by-law respecting	
.....	427	them .....	508
		" when the council may, by by-law, authorize con-	

## PENALTIES :—

fiscation.....	577, 581, 630
“ the contractor for roads, sidewalks, bridges and water-courses is liable to penalties in the same manner as those with whom he has contracted.....	790, 858, 878
“ the recovery of.....	1042 and fol.
“ imposed on the owner of animals found straying..	440
“ may be paid before suit brought.....	441
“ to whom belonging.....	448
“ (RECOVERY OF).	
“ imposed by the provisions of this code, before what court recoverable.....	1042
“ all, incurred by the same person may be included in the same suit.....	1043
“ incurred for each day can be recovered for one day only, unless special verbal or written notice has been given to the person in default.....	1044
“ suits for their recovery must be commenced within six months.....	1045
“ such suits may be brought by any person of age, or by the head of the council.....	1046
“ and are decided on the oath of one credible witness.....	1047
“ to whom belonging.....	1048
“ in default of payment within fifteen days from the rendering of the judgment, the defendant may be imprisoned for thirty days.....	1049
“ imprisonment ends on payment of the sum due.....	1049
“ imprisonment discharges the defendant from the obligation of satisfying the judgment.....	1049
“ the plaintiff or complainant whose demand is dismissed with costs is bound to pay the costs under penalty of imprisonment.....	1050
“ manner in which prosecutions brought before justices of the peace are heard and decided.....	1052
“ such prosecutions need not be commenced by a deposition on oath of the complainant, if the purport of the demand is sufficiently set forth in the writ or the declaration.....	1052
“ delay between the service and return of the writ... ..	1055
“ the justice of the peace who has signed the writ is entitled to sit alone.....	1056
“ he may require the assistance of any other justice of the peace.....	1056
“ the returns of the bailiff are given under his oath of office.....	1057
“ the justice of the peace or the clerk must take	

## PENALTIES

“ th

“ th

“ w

“ in

## PERFORMANCE

## PERSONS,

“ Sa

“ w

“ in

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“ the

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## PHYSICIANS

“ on

“ l

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## PIERS, may

“ l

## PICKETTES, t

“ U

“ See

## PILOTS, (lic

“ thei

## PITS on mu

“ re

“ See

## PLACARDS, t

“ p

## PLACES of p

“ by

“ Sa

“ (unk

“ co

## PENALTIES :—

notes of the important parts of the evidence.....	1058
" these notes form part of the record .....	1058
" the judgment may be executed fifteen days from date .....	1059
" when constables and police officers may, and are bound to arrest, at sight, persons found contravening a by-law .....	1060
" in case of appeal to the circuit court the record must be remitted to the justice of the peace.....	1054
PERFORMANCES, <i>See</i> CIRCUS, THEATRE.	
PERSONS, penalty by those who refuse to act under this code.....	9
" <i>See</i> PENALTY.	
" who are entitled to be heard before the council or the committees, may be heard in person, or by another, and may produce witnesses.....	97
" in holy-orders are disqualified for municipal offices .....	203
" over sixty years of age are exempt from municipal offices.....	209
" employed on iron or wooden railways are exempt from municipal offices.....	209
" the annual salary of all, engaged in the service of others, when it exceeds four hundred dollars, is taxable property .....	710
PHYSICIANS (practising), are exempt from municipal offices.	209
" on production of a medical certificate, intoxicating liquors may be given, for certain purposes, in a municipality in which their sale is forbidden.....	566
" their annual income is taxable property.....	710
PIERS, may be acquired by the council by by-law or resolution.....	485 (460)
PIC-STIES, the local council may make by-laws respecting the cleansing of.....	592
" <i>See</i> FIRES.	
PILOTS, (licensed), are exempt from municipal offices.....	209
" their annual income is taxable property .....	710
PITS on municipal roads form part of the works on such roads.....	773
" <i>See</i> DANGEROUS PLACES.	
PLACARDS, the local council may, by by-law, prevent the posting up of, in certain localities.....	604
PLACES of public entertainment, the local council may, by by-law, cause the bars thereof to be closed from Saturday until Monday .....	600
" (unhealthy and unwholesome) the town or village council may, by by-law, oblige owners or occupants to keep them clean.....	651

## PLACES :—

" See PUBLIC PLACES.

" See DANGEROUS PLACES.

PLAN of the municipality; the local council may, by by-law, have a plan thereof made..... 554

" if prepared at the expense of the corporation, must be made by a provincial surveyor and on a scale of not less than four inches to a mile..... 554

" of a territory before its erection into a village must accompany the report of the special superintendent.. 55

PLANT-TREES forming part of a maple grove, cannot be cut down under a *procès-verbal*..... 802

" See CLEARANCES.

POLICE may be maintained in any town or village municipality by by-law of the council..... 668

" (provincial), the officers and men thereof are disqualified for municipal offices..... 203

" See CONSTABLE.

" magistrate, See MAGISTRATES (police).

POLL-BOOKS, See ELECTION OF LOCAL COUNCILLORS.

POOR, may be assisted by the local council, by by-law or resolution..... 587, 591, (460)

" poor-houses and houses of refuge may be established by by-law or resolution of the local council..... 591 (460)

" domiciliary relief may be given them by the local council, under a by-law or resolution..... 591 (460)

" may be exempted by the local council from the payment of certain municipal taxes..... 943

POOR-HOUSES or houses of refuge, may be established and maintained by by-law or resolution of the local council..... 591 (460)

PORCHES, See ERECTIONS.

POST, See MAIL.

POSTS, guide and mile posts, on public roads; the county council may make by-laws or resolutions respecting them..... 419 (460)

" on municipal roads; penalty for injuring them.... 792

" upright, cannot be levelled on municipal roads in winter..... 836

POUNDS, (public) may be established by by-law of the local council..... 560

" must be established by every town or village council within four months from the coming into force of this code..... 560

POUND-KEEPERS, the local council appoints one or more, in the month of March every year..... 365

POUND-KE

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PRESIDENT C

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## POUND-KEEPERS :—

" when they enter upon the discharge of their duties.....	366
" time during which they discharge their duties.....	336
" penalty for refusing to accept or to continue his office.....	367a
" retain in safe keeping and take proper care of all animals impounded.....	428, 429
" give special notice to the owner of the animal, if he is known and domiciled in the municipality.	430
" when must they give public notice describing the animal and announcing its sale by auction.....	431
" must deliver up the animal to the owner, on payment of all amounts due thereon.....	432
" sell the animal by auction if he is not reclaimed and if the amounts due are not paid.....	433 and fol.
" receive the penalties paid by the owners before suit brought.....	441
" appoint an expert for the complainant or owner of the animal, on his neglect so to do.....	442
" sell any animal impounded on private property, without rendering the corporation responsible for their acts.....	447
" their fees may be fixed by by-law of the local council.....	560
" must be appointed and their fees fixed, in every town or village municipality, within four months from the time when this code comes into force...	560
" See ANIMALS FOUND STRAYING.	
POWERS (collective) of municipal corporations.....	4 and 449
PRECIPICES on municipal roads form part of the works which must be attended to on such roads. ....	773
" See DANGEROUS PLACES.	
PREScription of actions, claims and demands against the secretary-treasurer.....	170
" of the right to demand the repeal of existing municipal acts or orders.....	5
" of the right to demand the repeal of any by-law or other municipal act.....	100, 708
" of municipal taxes, with certain exceptions. ....	950
PRESIDENT of the council, (in session) how chosen in the absence of the head.....	131
" maintains order and decorum and decides questions of order, saving an appeal to the council.....	132
" when entitled to vote and when bound to vote. ...	134
" must sign the minutes of the sitting of the council.	157
" must sign the original of every by-law passed by the council .....	457

## PRESIDENT :—

" board of delegates, how chosen.....	273
" board of delegates, his vote.....	274
" at the election of local councillors.....	296 to 325, 623
" at the election of local councillors is not eligible as a councillor.....	285
" at the election of local councillors must inform the lieutenant-governor should no election take place.....	326
" any person appointed to preside at such election may decline the office on giving special notice within four days.....	305
" See ELECTION.	
PRESIDING OFFICER of the council, See PRESIDENT OF THE COUNCIL.	
PRIVIES, the local council may make by-laws respecting the cleansing of .....	592
" deposit of their contents, See DELETERIOUS MATTER.	
" the town or village council may regulate the manner in which they are to be built and drained....	646
PRIVILEGES (rights and) heretofore conferred on certain corporations are continued .....	26
PROCÈS-VERBAUX heretofore in force are continued.....	5
" mode of drawing them up and the acts of appointment relating thereto .....	796 to 821
" when drawn up for roads.....	528, 794
" when drawn up for bridges.....	628, 855
" when drawn up for water-courses.....	884
" appointment of a special superintendent by the council.....	794
" meeting of interested parties, convened and held by the special superintendent.....	796
" his report thereon.....	797
" case in which the council appoints another superintendent or gives the superintendent new instructions.....	798
" what must be indicated in every <i>procès-verbal</i> .....	799, 800
" what may be ordered by any <i>procès-verbal</i> .....	801 to 803
" must be deposited by the special superintendent	804
" is homologated by the council or the board of delegates, after notice.....	805 to 807
" costs of the proceedings are taxed by the council or the board of delegates; by whom payable....	807
" notice of homologation.....	808
" when do they come into force, .....	809
" may be amended or repealed by other <i>procès-verbaux</i> .....	810
" nevertheless when homologated by a board of de-	

## PROCÈS-VER

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" an
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pe
PRO-MAYOR
th
"
PROMULGATI
" See
PROOF in v
ta

## PROCÈS-VERBAUX :—

.....	273	legates can only be amended or repealed on	
.....	274	petition by the majority of rate-payers men-	
6 to 325, 623		tioned therein .....	810
ligible	285	" when must a copy be sent to the office of the	
.....		local council .....	813
inform		" an appeal lies to the county council from any	
n take		homologation thereof by the local council .....	926
.....	326	" the decision of the county council amending any	
ection		<i>procès-verbal</i> must be published by public no-	
notice		tice .....	935
.....	305	" act of apportionment, when and by whom	
		made .....	812, 814, 816
OF THE		" " what it must indicate .....	815
ng the		" " notice of its deposit in the office of the	
.....	592	council; when in force .....	817
MATTER.		" " must be annexed to the <i>procès-verbal</i> to	
man-		which it relates .....	818
ned....	646	" " when must a copy be sent to the local	
certain		councils .....	818
.....	26	" " may be amended, after public notice ....	819
.....	5	" " cannot contain any provisions inconsis-	
appor-		tent with the <i>procès-verbal</i> .....	820
.....796 to 821		" " an appeal lies to the county council from	
.....528, 794		any amendment made to an act of ap-	
.....628, 855		portionment by a rural council. ....	926
884		" and acts of apportionment may be annulled by the	
y the		magistrate's court or by the circuit court. ....	5, 100
.....	794	" and acts of apportionment are binding until an-	
held		nulled .....	5, 100 (461)
.....	796	" and acts of apportionment, on what is the appor-	
.....	797	tionment of works based .....	821
super-		" an appeal lies to the circuit court from any deci-	
w in-		sion of a board of delegates, or of a county coun-	
.....	798	cil not sitting in appeal, respecting any <i>procès-</i>	
.....799, 800		<i>verbal</i> or act of apportionment. ....	1061, 1062
.....801 to 803		PRODUCTION, See RECEIPT, SERVICE.	
ndent	804	" which must be made at the office of the council,	
of del-		" may be validly made at the domicile of the sec-	
.....805 to 807		retary-treasurer or to the secretary-treasurer	
council		personally .....	107
le....	807	PRO-MAYOR may be appointed by the council; performs	
.....	808	the duties of mayor during his absence or during	
.....	809	a vacancy in the office .....	345
procès-		PROMULGATION of by-laws .....	691 to 697
.....	810	" See BY-LAWS.	
of de-		PROOF in writing, the council or the committees may	
		take communication of any such proof .....	98

PROPERTY, acquisition thereof, by the corporation 4, 485 to 488 (460)	
" taxable, meaning of the term..... 19 § 17, 709	
" taxable comprised in a territory separated from a municipality, remains liable for all obligations contracted before such separation..... 78	
" taxable. See VALUATION..... 709 to 747	
PROPRIETOR, meaning of the word..... 19 § 18	
" absent, may appoint an agent to represent him..... 222	
" absent, who has neither appointed an agent nor made his address known, is not entitled to special notices..... 223	
PROPRIETORS of real estate, when have they alone the right to vote for the approval or disapproval of a by-law..... 492, 986	
" of any lot of land divided after the passing of any act regulating the works on roads, bridges or water-courses, are jointly and severally liable for such works, saving their recourse... 781, 858, 878	
PROSECUTION before justice of the peace..... 1052 to 1060	
" See FINES.	
PROVISIONS, See MARKETS, (public).	
" the town or village council may regulate the sale thereof..... 627, 628	
" common to all municipal corporations..... 93 to 245	
" common to all county corporations..... 246 to 275	
" common to all local corporations..... 276 to 448	
" (interpretative)..... 19	
" declaratory..... 2 to 16, 20	
" (exceptional)..... 846, 847, 847a, 866, 1080 to 1085	
" (final)..... 1086, 1087	
PUBLICATION of documents, orders or proceedings in council, how made when required..... 104	
PUBLIC MARKETS, See MARKETS (public).	
PUBLIC PLACES (squares, parks, &c.,) may be established and kept in repair by by-law or resolution of the local council..... 543 (460)	
" the local council may, by by-law, plant trees therein..... 547	
" the local council may by by-law prevent the posting up of indecent placards, &c., in public places.... 604	
" the town or village council may, by by-law, prevent the obstruction thereof..... 645	
PUBLIC WORKS OF CORPORATIONS, See ROADS, WATER-COURSES, FERRIES, BRIDGES..... 475	
" by contract ; how such contract is made..... 982, 901	
" notice required thereof..... 893	
" the contract is awarded by resolution of the council..... 894	
" by whom such contract is accepted..... 895	

PUBLIC W

" th

" w

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QUALIFICA

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QUICK-LINE

QUORUM, a

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QUESTIONS,

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RACES, (hor

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RAILROADS.

RAILWAYS,

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" (aid

" See

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" See

RANGE, mea

RATE-PAYER,

" See

" is no

the

" is no

un

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no

85 to 488 (460)

... 19 § 17, 709

From a

gations

..... 78

... 709 to 747

... 19 § 18

im..... 222

nt nor

led to

e right

a by-

..... 492, 986

of any

ges or

ble for

781, 858, 878

1052 to 1060

e sale

..... 627, 628

..... 93 to 245

..... 246 to 275

..... 276 to 448

..... 19

..... 2 to 16, 20

1080 to 1085

..... 1086, 1087

coun-

..... 102

ished

of the

..... 543 (460)

herein 547

posting

es .... 604

pre-

..... 645

ATER-

..... 475

..... 982, 901

..... 893

coun-

..... 894

..... 895

## PUBLIC WORKS:

" the contractor must give security..... 896

" when the work is under the direction of the delegates..... 897

" the contract is binding on every municipal corporation interested..... 898

" by what councils may suit for enforcing the performance of the contract be brought..... 899, 900

" may be placed under the direction of the road inspector of the division..... 901

PURCHASER of any land is liable to pay the taxes due on such land at the time of his purchase, saving recourse..... 948, 949

PURCHASERS. See MARKETS (public).

QUALIFICATION. A local councillor must be a real estate owner..... 291

" required from municipal officers appointed by Lieutenant-Governor..... 180

" special, required from the mayor..... 335

QUICK-LIME, how to be kept. See FIRES.

QUORUM, adjournment for want of..... 139

" of the county council..... 259

" of the board of delegates is of three..... 272

" of the local council is of four..... 289

QUESTIONS, contested, how decided in the council..... 133

" contested, how decided at the board of delegates... 274

RACES, (horse), may, by by-law of the local council, be prevented on Sundays and holidays of obligation. 601

RAILROADS. See RAILWAYS.

RAILWAYS, (iron), persons employed thereon are exempt from municipal offices..... 209

" (aid to) may be given by by-law of the council. 479 and fol.

" See COMPANIES, PROPRIETORS.

" (wooden,) persons employed thereon are exempt from municipal offices..... 209

" (aid to), may be given by by-law of the council, 479 and fol.

" may be acquired by the council by means of a by-law or resolution..... 485 (460)

" See COMPANIES, PROPRIETORS.

RANGE, meaning of the word..... 19 § 23

RATE-PAYER, meaning of the term..... 19 § 21

" See PROPRIETOR.

" is not an inadmissible witness in any case in which the rights of the corporation are in question..... 7

" is not liable, after the division of a municipality, under any regulations in force at the time of such division, for work to local loans or bridges not in his municipality..... 90

## RATE-PAYER:—

- " may notify the lieutenant-governor of neglect on the part of the council to appoint any officer..... 178
- " do do warden.....250 (178)
- " do do delegate.....264 (178)
- " do do mayor.....332 (178)
- " required to pay more taxes than he is liable for may plead by exception or opposition..... 970

RATES, *See* TAXES (municipal).

" (school), *See* TAXES (school).

## READING of public notices, when and where done.....234, 235

- " neglect so to do does not invalidate the publication of the notice.....234,235
- " penalty for such neglect.....234,235
- " the council may, by by-law, order that its by-laws be read aloud two or three times before the passing thereof..... 468
- " aloud of by-laws: when and where done..... 693
- " neglect so to do does not prevent the by-law from coming into force..... 693
- " penalty for such neglect..... 693

## READING AND WRITING, to read print and sign one's name only, is not a sufficient reading and writing qualification for a municipal officer..... 17

- " auditors must have a knowledge thereof..... 175
- " the mayor.....do do ..... 335
- " in the event of not one of the local councillors having a knowledge thereof..... 336

## REAL ESTATE, meaning of the term.....19 &amp; 24

## RECEIPT must be given, under penalty of a fine, to any one lodging a document.....103, 196, 275

- " must be given, by any one withdrawing an exhibit 104
- " In case of redemption of a land sold for non payment of taxes, what it must contain and its effect 1023

## RECOVERY of fines imposed under this code..... 1042 to 1060

" *See* FINES.

## REDEMPTION of lands sold for municipal taxes.....1022 to 1025

REGISTER OF PROCEEDINGS *See* *procès-verbal* of the sitting

- of the council..... 157
- " every amendment or repeal of a by-law must be set forth on the margin thereof, opposite such by-law or resolution..... 157

## REGISTER of roads and water-courses, how kept by the local secretary-treasurer.....368, 369

## REGISTRAR, discharges the duties of warden, in his default. 255

- " convenes and holds a meeting of the county council as soon as possible, in any newly erected county municipality ..... 257

REGISTER

"

"

"

REGISTER

"

"

"

"

"

RELIEF to

"

"

"

"

REMOVAL

"

REPEAL, &amp;

REPERTORY

RESERVOIR

RESIGNATION

RESOLUTION

"

"

"

"

"

"

"

RESPONSE



## REGISTRAR:—

ect on  
er..... 178  
.....250 (178)  
.....264 (178)  
.....332 (178)  
le for  
..... 970

.....234, 235  
blica-  
.....234, 235  
.....234, 235  
-laws  
pass-  
..... 468  
..... 693  
from  
..... 693  
..... 693  
name  
qua-  
..... 17  
..... 175  
..... 335  
illors  
..... 336  
.....19 & 24  
any  
3, 196, 275  
hibit 104  
pay-  
effect 1023  
1042 to 1060  
022 to 1025  
ating  
..... 157  
t be  
uch  
..... 157  
the  
.....368, 369  
ult, 235  
ncil  
anty  
..... 257

" must register, in a book kept for the purpose, all municipal by-laws authorizing a loan or an issue of debentures, and transmitted to his office with the report.....	992
" such documents are open to the inspection of the public, on payment of the regular fees.....	993
" schedule of such fees.....	994
" (the provincial), must transmit to the office of local municipalities a list of crown lands conceded...	715
REGISTRY OFFICE, the construction and maintenance of a building with a vault or safe must be provided by by-law of the county council.....	514
" a fire-proof vault or safe must be provided and kept in repair therein by the county corporation.....	515
" penalty for omission or neglect.....	515
" on the neglect of the corporation, the vault or safe is provided or repaired by the government at the expense of such corporation.....	516, 517
" copying of deeds under cap. 37, Sec. 94 C. S. L. C.	518
RELIEF to the poor, may be given by by-law or resolution of the local council.....	587, 591 (460)
" to any person who has received an injury or contracted sickness at a fire may be given by by-law or resolution of the local council.....	588 (460)
" to the family of any person who has lost his life at a fire, or in endeavoring to save any one from a serious accident, may be given by by-law or resolution of the local council.....	590 (460)
REMOVAL of municipal officers, how effected.....	185
" notice must be given them.....	185
REPEAL, <i>See</i> ANNULMENT.	
REPERTORY kept by the secretary-treasurer.....	163
RESERVOIR, <i>See</i> WELLS (public).	
RESIGNATION of a councillor, when accepted, renders the office vacant.....	337
RESOLUTIONS heretofore existing are continued.....	5
" may be annulled by the magistrate's court or by circuit court.....	5, 100
" are binding, until annulled.....	5, 100 (461)
" for what purpose may be passed instead of by-laws.....	460
" when annulled or amended, mention must be made thereof on the margin of the Register of Proceedings, opposite such resolution.....	157
RESPONSIBILITY of the corporation for the acts of the officers of the council.....	160

## RESPONSIBILITY :—

" of the corporation for damages resulting from orders of the council, annulled by the court.....	100, 706 to 708
" municipal officers are responsible to the corporation only, except in so far as penalties are concerned .....	200
<b>REWARDS</b> may, by by-law or resolution of the council, be given for the destruction of wild animals.....	505 (640)
" may, by by-law or resolution be given for the arrest of criminals.....	506 (460)
" may, by by-law or resolution of the local council, be given to any one for performing a meritorious action. ....	589 (460)
<b>RICHMOND</b> (county of) the works on roads and bridges are performed by the local corporation except in the municipality of St. George of Windsor.....	1080
<b>RIGHT AND PRIVILEGES</b> previously enjoyed by certain corporations or municipalities, are continued.....	26
<b>RIVERS</b> , when are they municipal water-courses.....	868
" Ottawa	} See roads (winter) and ferries.
" Milles Isles	
" Chambly	
" des Prairies	
" St. Lawrence	
<b>ROADS</b> , what is included in the word .....	193 27
" front roads are included .....	193 27
" front roads on crown lands, how made and maintained .....	780
" may be acquired by the council, by by-law or resolution .....	485 (460)
" county councils may, by by-law or resolution, cause mile posts and guide posts to be set up thereon at the expense of local corporations....	519 (460)
" county councils may regulate the use of winter vehicles thereon. ....	521
" local councils may by by-law cause sidewalks and sewers to be made thereon.....	544 to 546
" local councils may, by by-law, cause trees to be planted along roads.....	547
" local councils may, by by-law, prevent parties from riding or driving faster than at an ordinary trot thereon in the vicinity of churches.....	548
" local councils may, by by-law, prevent the posting up or writing of indecent words, placards or drawings on roads.....	604
" town or village councils may, by by-law prevent their obstruction.....	645

## ROADS :—

" to
" See
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## ROADS:—

" town or village councils may, by by-law, cause them to be watered, swept and kept clean.....	670
" See ERECTIONS, MARKETS, NUISANCES.	
" the rural inspector may authorize the opening of any trench thereon so as to admit of the passage of a water-course.....	883
" such opening must be indicated, day and night, so as to prevent accident.....	883
" a bridge must be built over such excavation within forty-eight hours.....	883
" must not be run through certain property without the written consent of the owner.....	904, 905
" which lead solely to railway stations, ferries and pay-bridges, are municipal.....	748
" all public roads, are municipal.....	748
" except those under the control of the federal or provincial government.....	751
" except those governed by special acts or by cap. 70, C. S. L. C.....	751
" used by permission of the owner when they are municipal.....	749
" used by permission of the owner, the obligation to maintain such roads is vested in the owner or occupant.....	749
" used by permission of the owner may be closed by order of the council or of the board of delegates.....	749
" the ground occupied by municipal roads, to whom does it belong.....	749, 752
" the ground occupied by a discontinued municipal road, to whom does it belong.....	753
" in village municipalities; the land acquired or reserved for public squares, &c., belongs to the council which may deviate from the plan laid down.....	767
" (municipal,) are either local or county.....	754
" when local.....	755, 756
" when county.....	755, 756
" under the control of which corporation are they..	757
" local, may be declared county roads by the county council or by the board of delegates.....	758, 759
" county, may be declared local roads by the same authorities.....	758, 759
" of several counties, may by the board of delegates, be declared the road of one county only.....	759
" under whose charge are the works after such declarations have been made.....	760



## ROADS:—

- “ work thereon is done by the persons liable or by the corporation..... 779
- “ crown lands are not liable for road work..... 780
- “ but the occupants thereof are..... 780
- “ the occupants of any lot divided after the road work has been settled by by-law or *procès-verbal*, are jointly and severally liable..... 781
- “ no rate-payer is liable for work in any neighbouring local municipality, unless on a county road ..... 782
- “ work which must be performed on a by-road by the labor of the persons liable, is apportioned according to the superficial extent of the land liable..... 783
- “ road work, how performed ..... 784
- “ are under the superintendence and control of the road inspector, unless a special officer has been appointed..... 376, 785
- “ such special officer has the same authority and is under the same obligations as the road inspector ..... 376, 785
- “ the work may be done by contract if so ordered... 786
- “ the work of keeping them in repair may be given to the lowest tender, in the months of April and October, by the road inspector ..... 787 (828)
- “ must at all times be in good order, free from ruts, &c..... 788
- “ when are persons liable for road work, in default... 789
- “ the contractor is liable for the persons whose work he has contracted to perform, and is their surety in default of the work being executed..... 790
- “ the non-execution of work by persons in default, renders them liable for all damages resulting therefrom, in addition to a penalty..... 791
- “ in any such case the work may be done by the road inspector..... 397
- “ or by the council, on the report of the road inspector..... 399 to 401
- “ and the value of such work, with 20 per cent in addition thereto, may be recovered by the council or the officer who has done the work. 398, 401 to 403
- “ the road inspector cannot, without authorization, do work or furnish materials for any sum exceeding five dollars annually, without previously notifying the persons in default..... 397
- “ the road inspector must, every time he does any such work, or furnishes materials, without au-

## ROADS :—

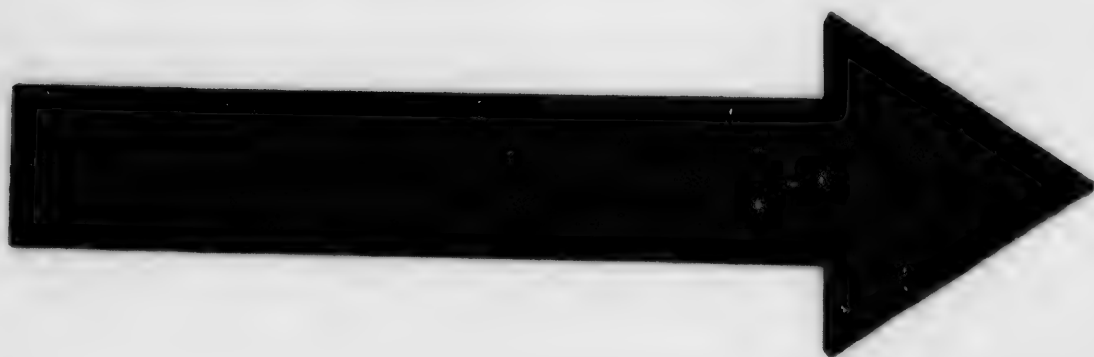
thorization, immediately notify the person in default.....	397
" exemption in favor of certain companies.....	21, 22
" See COMPANIES (iron or wooden railway).	
" must be inspected by the road inspector between the 1st and 15th of the months of June and October in each year, and whenever required so to do by the council or the mayor.....	404
" penalty incurred by any person injuring trees or other works thereon.....	792
" the corporation must have them kept in the condition required by law, and by the <i>procès-verbaux</i> and by-laws respecting them, under a penalty of fine and damages, saving its recourse against the persons liable.....	793
" any council may, by resolution or by-law, and on certain conditions, authorize the construction of certain works which would render passage thereon dangerous.....	476 (460)
" any council may, by by-law or resolution, give aid to a road leading into their municipality.....	477 (460)
" the local council may, by by-law or resolution, order them to be opened and kept in repair..	526 (460)
" the local council may, by by-law or resolution, order the widening or change of position of any road.....	527 (460)
" the local council may, by by-law, after public notice, order the closing or destruction of any road..	530
" the opening, keeping in repairs, widening or change of position may also be ordered by <i>procès-verbal</i> homologated by a council or board of delegates.....	531
" in the event of the closing or destruction of a road leading into any other municipality, the approval of the county council or of the board of delegates, is necessary .....	762a
" the local council may, by by-law, raise, round, pave, macadamize, gravel or plank any road....	533, 534
" Municipality divided in road divisions.....	460 and 555
" in any such case if the expense is to be borne by the rate-payers, the by-law can only be passed on the petition of the majority of such ratepayers...	533
" the local council may, by by-law, erect turnpikes and levy tolls on roads which are macadamized, paved or planked.....	545
" the local council may oblige the road inspector to keep certain implements for use on roads.....	385

## ROADS :

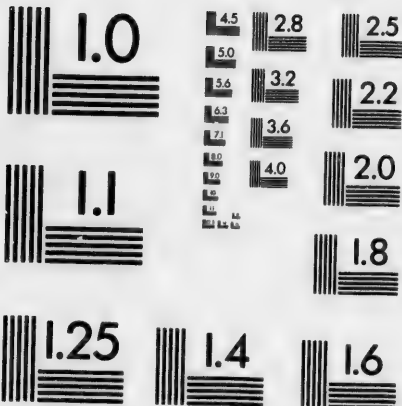


## ROADS :—

persons bound to perform work may be compelled to use such implements; the use thereof being gratuitous.....	85
the work for which rate-payers are liable, may be regulated, determined and apportioned by by-law of the local council.....	828, 794
or is regulated and determined by a <i>procès-verbal</i> .....	528, 794
<i>See Procès-verbal</i> .....	
what persons may be made liable for work thereon by by-law or <i>procès-verbal</i> .....	793
in the absence of any <i>procès-verbal</i> or by-law, by whom is the work on the front roads performed.....	821, 825
by whom is the work on by-roads performed.....	826 to 830
repairs to such by-roads are made by means of contribution in money levied by the road inspector, under an act of apportionment, approved by the council.....	827
such work is given out to the lowest tender by the road inspector, in the months of April and October.....	828
work to be performed in common, by whom directed and superintended.....	382 to 384
the local council may, by by-law, order that any or all of them, be, for the future, at the costs and charges of the corporation.....	535 to 538
when such by-law would come into force.....	535
such by-law can only be repealed with the concurrence of two-thirds of the members of the council.....	540
effect of such by-law as to rate-payers, the corporation, and all acts respecting such work.....	536 to 539
WINTER.....	831 to 849
are laid out before the first of December in the places fixed by the road inspector.....	832
how laid out.....	832
front roads, by whom laid out.....	832
by-roads, by whom laid out.....	832
the council may order that they be kept with a double track.....	833
in default of an order of the council a double track must be made at every four acres.....	833
penalty for displacing or substituting <i>balises</i> .....	834
their width.....	835
fences on the front roads must be kept levelled from the 1st December to the 1st April, unless	



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## ROADS.—

the council or the road inspector decide otherwise.....	836
" the council may issue its orders respecting winter roads.....	832, 837
" laid out on the same lines as summer roads, at whose expense are they.....	838, 839
" which are substituted for summer roads, where may they be laid out.....	840
" by whom are such substituted roads kept in repair.....	841, 848
" ON RIVERS, the local corporation must keep in repair half of any road across a river which separates it from any other municipality.....	842
" in default thereof, such roads may be kept in repair at its expense by the corporation demanding such roads.....	843
" roads made on the ice may be continued across any field or land in standing timber until they reach another public road.....	844
" when and by whom laid out.....	845
" the costs thereof on the following rivers, St. Lawrence, Ottawa, Mille Isles, Chambly and des Prairies, are reimbursed by the county municipalities.....	846
" the corporations of town or city municipalities on the St. Lawrence must reimburse the costs of roads which terminate on the river within two miles of their municipalities.....	817
" See MASKINONGE.	
" substituted for summer roads.....	848
" corporations are not responsible for accidents caused by the breaking up of the ice.....	849
ROAD INSPECTOR, See INSPECTOR.	
ROADS (colonization) of the 2nd or 3rd class, aid may be granted to them, by by-law or resolution of the council.....	478 (460)
" (macadamized or paved), aid thereto may be granted by by-law of the council.....	479 and fol.
" (macadamized), may be acquired by the council by means of a by-law or resolution.....	485 (460)
ROBERTVAL (local council of) in the county of Chicoutimi, enjoys all the powers of a county council.....	1081
ROLLER, the municipal council may oblige the road inspector to procure one.....	385
" the use thereof may be exacted on municipal roads.....	385
ROLLS, heretofore existing are continued in force.....	

ROLLS:

"

"

"

ROOFS,

"

ROW, (C

RURAL,

"

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"

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"

"

## ROLLS:—

other-.....	836	" may be annulled by the magistrate's court or by the circuit court.....	5, 100
g winter.....	832, 837	" are binding until annulled.....	5, 100 (461)
roads, at.....	838, 839	" See VALUATION, TAXES (MUNICIPAL).	
, where.....	840	Roofs, the town or village council may, by by-law, cause the removal of ice or snow therefrom.....	644
ot in re-.....	841, 848	" See LADDERS.	
p in re-.....	842	Row, (côté), is designated by the word range.....	19 § 23
ch sepa-.....	843	RURAL, meaning of the word.....	19 § 2
ot in re-.....	844	" INSPECTOR, See INSPECTOR.	
demand-.....	845	Ruts, municipal roads must be kept free from.....	763
d across.....	846	SALARIES, councillors do not receive any salary.....	113
ntil they.....	847	" of judges, civil servants, and of persons engaged in the service of another, exceeding four hundred dollars, are taxable property.....	710
.....	848	SALE by auction of animals impounded.. .....	431 and fol.
.....	849	" See ANIMALS FOUND STRAYING, POUND KEEPERS.	
St. Law-.....	850	" by the road inspector to the lowest tender, of the work of keeping roads and bridges in repair; when does such sale take place.....	787, 828, 856
and des.....	851	" on markets, See MARKETS (public).	
municipi-.....	852	" of effects for the payment of municipal taxes.....	599, 963 to 968
alities on.....	853	" lands for non-payment of taxes.....	998 to 1025
e costs of.....	854	" the secretary-treasurer must prepare a list of such lands every year before the eighth of January...	998
thin two.....	855	" such list is accompanied by a notice of sale for the first Monday in March.....	998
.....	856	" publication of the list and notice, when and how made.....	999
accidents.....	857	" by whom and how is such sale made.....	1000, 1001
.....	858	" the purchaser must pay immediately on adjudication.....	1002
may be.....	859	" in default thereof the land is resold.....	1002
on of the.....	860	" adjournment of the sale, when does it take place.....	1002, 1003
be grant-.....	861	" on payment of the purchase-money the secretary-treasurer gives a certificate to the purchaser.....	1004
.....	862	" the purchaser may then enter into possession of the land.....	1004
e council.....	863	" he cannot carry off timber during the first year....	1004
.....	864	" the local corporation may, at any such sale, bid for and buy land without making immediate payment.....	1005
nicoutimi,.....	865	" a list of the lands so sold must be forwarded by the secretary-treasurer of the county to the office of each local municipality interested.....	1006
il. ....	866		
road in-.....	867		
municipal.....	868		
.....	869		
.....	870		

## SALE :—

- " the local secretary-treasurer must give notice to the owners of such lands of the particulars of their sale..... 1006
- " if the land is not redeemed within two years the purchaser becomes the irrevocable proprietor..... 1007, 1012
- " he is then entitled to a deed of sale..... 1008
- " how is such deed executed ..... 1009, 1011
- " such deed must be registered on demand of the warden or of the secretary-treasurer..... 1010
- " effect of such sale..... 1013
- " recourse of the purchaser if the land sold does not exist ..... 1014
- " recourse of the purchaser if the adjudication or sale has been declared null..... 1014
- " the right of demanding that a sale be annulled is prescribed by two years..... 1015
- " how is such right exercised ..... 1015
- " if the land announced for sale by the secretary-treasurer is also to be sold by the sheriff, the secretary-treasurer does not proceed to the sale, but files the claim of the corporation with the sheriff..... 1016, 1041
- " if the proceedings for the sale by the sheriff are suspended, the corporation may intervene in the case..... 1018
- " if on the first Monday in March, the proceedings have been discontinued, the secretary-treasurer may proceed with his sale .... 1017
- " which corporation is liable to an action to annul or set aside the sale..... 19
- " may be rescinded by consent..... 120
- " one and the same lot cannot be sold two years consecutively ..... 1021
- " if the land liable for taxes levied by a council, is no longer in the county municipality..... 83
- " (REDEMPTION) the owner of land sold may redeem it within two years..... 1022
- " on what conditions..... 1022
- " such redemption may be made by any person, whether authorized or not..... 1023
- " as soon as the redemption is effected the secretary-treasurer must give notice to the local council and to the purchaser..... 1024
- " and must remit to the latter, on demand, the amount paid into his hands..... 1024

SALE :

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## SALE:—

" claim of the purchaser to be reimbursed for im-	1025
provements, &c .....	1025
" such claim is privileged .....	1025
" the purchaser may retain possession of the land	
until such claim is paid .....	1025
SCIENCES, (aid to) may be granted in the municipality, by	
by-law or resolution of the council .....	484 (460)
SCRAPER, <i>See</i> Roller.	
SECRETARY-TREASURER (local or county), appointment of....	142
" is not appointed by the lieutenant governor, on	
neglect of the council .....	177
" no person is bound to fill the office .....	201
" any person domiciled without the limits of the	
municipality may be appointed .....	203
" time during which he retains office .....	144
" must take an oath of office and give security before	
entering upon the discharge of his duties. ....	144
" an oath required by the provisions of this code may	
be made before him .....	6, 92
" may appoint an assistant .....	145
" his sureties .....	146 to 155
" when must he replace his sureties. ....	152
" has charge of the archives of the council. ....	156
" cannot divest himself of the possession of the	
archives without the permission of the council	
or on the order of a court .....	156
" may at any time convene a special session of the	
council .....	126
" attends the sessions of the council and keeps the	
Register of Proceedings .....	157
" countersigns the minutes of the sittings of the	
council .....	157
" copies and extracts of archives, documents, &c.,	
certified by him, are evidence of their contents..	158
" collects and has charge of the moneys of the cor-	
poration .....	159
" pays in the name of the corporation all amounts	
due by it, on the authorization of the council or	
of the head of the council .....	160
" when such authorization is unnecessary .....	160
" cannot under penalty of a fine, give a receipt	
without having received the value therein spe-	
cified .....	161
" cannot under penalty of a fine lend money be-	
longing to the corporation .....	161
" keeps books of account; manner in which such	
books must be kept .....	162

## SECRETARY-TREASURER :—

" must keep vouchers of his expenditure .....	162
" keeps a " <i>repertory</i> ," what it contains .....	163
" keeps the books, vouchers and other archives of the council open for inspection and examination .....	164
" gives copies or extracts on payment of his fees .....	165
" such copies or extracts are given gratuitously to the government, to the council and to its officers. ....	165
" must transmit to the principal place of business of any corporation or company which has filed an application to that effect, and made known such principal place of business, a certified copy of every public notice, by-law resolution and <i>procès-verbal</i> affecting such company or corporation, together with an extract from the valuation roll containing the valuation of its property .....	165
" renders an account of his receipts and expenditure in the month of June, and oftener if required by the council .....	166
" may be sued to render such account, and be condemned to coercive imprisonment .....	167
" prescription of claims against him .....	170
" place at which he holds his office .....	171
" productions, services and deposits which should be made at the office of the council, may be made to him personally, or to any reasonable person at his domicile .....	107
" is an officer of every court .....	172
" must notify the lieutenant-governor when the council neglects to make an appointment .....	178
" must notify any municipal officer of the resolution by which he is appointed or removed .....	185
" must sign the original of every by-law passed by the council .....	457
" may deposit the moneys of the corporation in a bank, in the absence of a by-law to that effect ...	500
" must make such deposit if required by the council or its head .....	500
" his duties respecting the approval of by-laws by municipal electors .....	457, 675, 676, 678, 686
" his duties respecting their approval by the lieutenant-governor in council .....	457, 498, 687
" his duties in connection with the promulgation of by-laws .....	692 and fol.
" if any work, for which a <i>procès-verbal</i> has been made, falls within the jurisdiction of another	

SECRET

SECRET

## SECRETARY-TREASURER :—

.....	162	council, he transmits all the proceedings connected therewith to the office of such council.....	805
.....	163	" must give public notice of the homologation of a <i>procès-verbal</i> by the council.....	808
hives of	164	" must retain in his hands all moneys for the payment of expropriation indemnities, if creditors come forward, until there is a decision of the court.....	921
examin-	165	" must apportion and collect the amount of such indemnities with interest and costs, if at the costs and charges of the rate-payers.....	922
.....	165	" must transmit to the registrar copies of all by-laws authorizing an issue of debentures.....	990
usly to	165	" if debentures have been issued under heretofore existing by-laws without complying with such formalities, he must comply therewith, within three months of the coming into force of this code.....	991
officers.	166	" penalty for neglect so to do.....	995
business	167	" must, when a copy of a judgment against the corporation has been served at the office, forthwith pay the amount on authorization.....	1026
as filed	170	" the office occupied by him is the office of the council.....	105
known	171	" where such office is established.....	171
ed copy	107	" See OFFICE (municipal), OFFICERS (municipal) SECRETARY-TREASURER OF THE COUNTY, AND SECRETARY-TREASURER (local).	
on and	172	SECRETARY-TREASURER OF THE COUNTY, See SECRETARY-TREASURER (local or county).	
corpo-	178	" duties respecting the erection of a village municipality.....	55, 60, 64
valuation	185	" must transmit, each year, to the Provincial Secretary, a statement of the debts, etc., of the corporation; penalty for refusing.....	168a, 169
erty.....	457	" must inform the lieutenant-governor of neglect by the council to appoint a warden or delegates.....	250, 264 (178)
nditure	500	" must transmit a copy of the by-laws to the office of each local municipality.....	458
ired by	676, 678, 836	" in cases of appeal to the county council, when must he convene a special session of the council	930
.....	457, 498, 687	" gives notice of the day, etc., when the council shall take the appeal in consideration.....	931a
be con-	692 and fol.	" must transmit to the local council, a copy of the decision of the council before which the appeal	
.....	another		

## SECRETARY-TREASURER :—

was brought, or a certificate establishing that no decision was given.....	934
" apportions, with the approval of the council, the taxes payable by local corporations, and sends them a copy of such apportionment.....	910
" his duties respecting the sale of lands for non payment of taxes, and their redemption.....	998 and fol.
" must transmit to the offices of local municipalities a list of the lots sold .....	1006
" and the warden execute the deed of sale in favor of the purchaser two years after the sale, in default of redemption.....	1009
" must cause such deed to be registered.....	1010
" if the land announced for sale by him is also advertised by the sheriff, he does not proceed with the sale but files his claim with the sheriff....	1016, 1041
" must, when lands are redeemed, give notice to the local council .....	1024
" must, in cases of appeal to the circuit court, transmit the record to the clerk, after service of the petition in appeal.....	1068
SECRETARY-TREASURER (LOCAL), See SECRETARY-TREASURER (local or county).	
" must transmit to the provincial secretary, every year a roll is made, a statement of debts, statistics, &c., of the corporation; penalty for refusing.....	168, 169
" may be required to attend to the publication in the municipality, of notices given for county purposes, and to the transmission of the certificate of publication.....	235
" must give the notice required for the election of councillors.....	294, 362
" when does he preside at the election of councillors .....	296, 363
" must notify the lieutenant-governor if no election of local councillors takes place.....	326
" must notify the warden of the appointment of the mayor.....	331
" must notify the mayor of his appointment, if he was not present thereat.....	331
keeps the register of roads and water-courses....	368, 369
" must comply with the provisions of the law respecting juries and parliamentary elections.....	370
" submits to the council, every year in the month of November, a statement of the arrears of municipal taxes .....	371, 372

SECRET

SECURITY

## SECRETARY-TREASURER (LOCAL) :—

that no	934	" transmits to the office of the county council, an extract of such statement, before the 20th December .....	373
.....	910	" may be employed by the valuator and paid for his services.....	375
on pay-	998 and fol.	" attends with the valuation roll, as poll clerk, at any meeting held by the electors for the approval of by-laws .....	678
palities	1006	" must attend to the reading of county by-laws, if notice thereof has been given him.....	693
a favor	1009	" must publish by-laws which have been amended or confirmed in appeal by the county council....	695
in de-	1010	" must in due time give the valuator the return furnished by iron or wooden railway companies.	720
.....	1016, 1041	" must sign the valuation roll, if he has been employed as clerk by the valuator.....	725
ice to	1024	" must give notice to the lieutenant-governor if the valuator do not deposit the valuation roll within the prescribed delay .....	727
trans-	1068	" gives notice of the deposit of the valuation-roll by the valuator at the office of the council.....	732
of the		" must initial every amendment to the valuation roll .....	738
ASURER		enters a declaration on the roll testifying to the accuracy, date and number of the amendments.	738
every	168, 169	" transmits a certified copy of the valuation roll to the office of the county council.....	739
ts, sta-		" must publish any decision of the county council in appeal, amending a <i>procès-verbal</i> .....	935
for re-	235	" in cases of appeal must transmit all documents relating thereto, to the county council.....	936
.....	294, 362	" his duties respecting the collection of taxes.....	954 to 971
ion in	296, 363	" See TAXES municipal, (collection of).	
county	326	" is bound, whenever any lot of land on which taxes are due, is to be sold by the sheriff or is the object of a petition for ratification of title or for expropriation, to file a detailed statement of such taxes .....	969
certifi-	331	" must give proprietors or occupants notice of the particulars of the sale of their lands for taxes....	1006
.....	331	SECURITY by persons requiring a census of the municipality to be taken.....	47
ion of	368, 369	" by the Secretary-Treasurer.....	146 to 155
.....	370	" See SECRETARY-TREASURER.	
.....	371, 372	" by petitioners in cases of contested appointments.....	352, 353

**SECURITY:—**

- " by any person to whom a contract has been awarded by the council ..... 896
- " by appellants to the circuit court.....1064, 1065, 1076
- " See APPEAL TO THE CIRCUIT COURT.

**SEIZURE AND SALE** of effects for the payment of municipal taxes.....599, 962 to 968

" See TAXES (municipal).

**SELLERS, See MARKETS** (public).

**SEPARATION** of a territory annexed or united to another....45 to 48

**SERVANTS**, the local council may, by by-law, prevent intoxicating liquor from being given to them without the consent of their master, &c..... 606

" in town and village municipalities, the council may regulate their conduct towards their masters..... 624

" in the absence of any by-law, the provisions of law in force in rural municipalities are applicable..... 624

**SERVICE** which should be made at the office of the council may also be made on the secretary-treasurer personally at his domicile..... 107

**SERVICES** of councillors are gratuitous..... 113

**SESSIONS**, (of the local or county council) meaning of the word .....19 & 14

- " special, are convened by giving special notice to the members of the council ..... 126
- " may be convened at any time by the head, the secretary-treasurer or two members of the council ..... 126
- " duties of the council, before proceeding to business ..... 127
- " what matters may be dealt with thereat ..... 127
- " hour at which they commence..... 128
- " in the event of the day fixed for an ordinary session falling on a holiday ..... 129
- " are open to the public ; their duration..... 130
- " of the presiding officer .....131, 132, 134
- " contested questions, how decided..... 133
- " when the presiding officer may, and when he must vote ..... 134
- " when a member is interested in any question..... 135
- " when a majority of the members of the council are interested in any question ..... 136
- " voting by ballot not allowed ..... 137
- " votes are recorded when required ..... 137
- " adjournment ..... 138
- " adjournment for want of a quorum ; notice required..... 138
- " places at which the sittings of the council are held ..... 141

SESSIONS

"

"

"

"

SESSIONS

"

"

"

"

"

"

SESSIONS

"

"

"

"

"

"

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SETTLEMENT

SEWERS, the

" the

SHEFFORD (a

SHEERBROOKE

an



## SESSIONS:—

" the secretary-treasurer attends all sessions and draws up the minutes thereof in the "Register of Proceedings".....	157
" either language may be made use of.....	241
" the duration of ordinary sessions may be regulated by by-law of the council.....	467
" See SESSIONS OF THE LOCAL COUNCIL OR OF THE COUNTY COUNCIL.	

SESSIONS OF THE COUNTY COUNCIL, when are the ordinary or general held .....	256
" in any newly organized municipality the registrar must, as soon as possible, hold a special session .....	257
" where are they held .....	258
" quorum of the council.....	259
" the delay for notice of a special session or of adjournment for want of a quorum, is ten days.....	260
" such notice may be sent by mail, prepaid.....	260
" See SESSIONS (of the local or county council).	

SESSIONS OF THE LOCAL COUNCIL, when and where is the first one held in any new municipality, and by whom is it presided over .....	286, 302
" of the local council, when do the ordinary sessions take place.....	287
" place where the council sits.....	288
" four members form a quorum.....	289
" the delay for the notice of a special session or of an adjournment for want of a quorum is two days.....	290
" general sessions may, by by-law, be limited to four per annum.....	611
" See SESSIONS (of the local or county council).	

SETTLEMENT of the debts of a municipality after its division .....	78 to 83
--	----------

SEWERS, the council may, by by-law or resolution, order them to be made and kept in repair at the expense of the corporation .....	475 (480)
" the local council may, by by-law, oblige proprietors to make sewers, fix the manner in which they are to be made, or cause them to be made at the expense of the corporation.....	545, 546

SHEFFORD (county of) works to roads and bridges therein are performed by the local corporations; except in the municipalities of Milton and Roxton.....	1080
---	------

SHERBROOKE (town of) works to roads and bridges therein are performed by the corporation.....	1080
---	------

SHERIFFS are disqualified for municipal offices.....	203
" their duties and powers in the execution of judgments against corporations.....	1030 and fol.
SHINGLES, <i>See</i> WOOD.	
SIDE-WALKS are under the superintendence and control of the road inspector, unless an officer has been specially appointed for such work.....	376, 785
" such special officer has the same powers and is liable to the same obligations as the road inspector .....	785
" nuisances or obstructions found thereon must be removed .....	386
" what is deemed a nuisance or obstruction.....	388, 389
" what precautions must be taken, under penalty of a fine and damages, when any duly authorized work is in course of construction thereon.....	390
" penalty for causing any obstruction or nuisance thereon.....	391
" must be inspected by the road inspector between the first and fifteenth of June and October every year, and whenever required by the council or the mayor.....	404
" the council may, by by-law or resolution, and on certain conditions authorize the construction of dangerous works thereon.....	476 (460)
" the local council may, by by-law compel owners or occupants to lay them down on public roads, and fix the manner in which they must be made.....	544, 546
" the local council may, by by-law, cause them to be made at the expense of the corporation.....	546
" the local council may, by by-law, cause trees to be planted along them .....	547
" the town or village council may, by by-law, cause the removal of snow, ice or other matter therefrom .....	644, 670
" the town or village council may, by by-law, prevent their obstruction.....	645
" the town or village council may, by by-law, determine their level and height .....	667
" the town or village council may, by by-law, cause them to be watered, swept and kept clean.....	670
" in what order must they be kept.....	788
" when are persons, liable for work thereon, in default.....	789
" the contractor is liable to the same obligations and penalties as those whose work he has undertaken to do, and is the surety of such persons.....	790

SIDE-WA

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SIGNATURE

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SLAUGHTER

n

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SLOPES, MUN

SMOKING IN

SNOW, *See* H

SNOW-PLOU

to

" the

pu

SOAP, *See* FASQUARES, *See*

ST. ANNE D

po

..... 203  
 of judg-  
 1030 and fol.

ontrol of  
 s been  
 ..... 376, 785  
 and is li-  
 inspec-  
 ..... 785  
 ust be  
 ..... 386  
 ..... 388, 389  
 alty of  
 orized  
 ..... 390  
 iance  
 ..... 391  
 etween  
 every  
 ncil or  
 ..... 404  
 and on  
 ion of  
 ..... 476 (460)  
 owners  
 roads,  
 ust be  
 ..... 544, 546  
 n to be  
 ..... 546  
 s to be  
 ..... 547  
 cause  
 there-  
 ..... 644, 670  
 , pre-  
 ..... 645  
 deter-  
 ..... 667  
 cause  
 ..... 670  
 ..... 788  
 n, in  
 ..... 789  
 s and  
 taken  
 ..... 790

## SIDE-WALKS:—

- " the non-execution of work by persons in default therefor, renders them liable to a penalty and damages..... 791
- " in any such case the work may be executed by the road inspector..... 397
- " or by the council in report of such officer..... 399 to 401
- " and the value with 20 per cent. in addition thereto is recoverable by the road inspector or the council which has done the work... 398, 401 to 403
- " the road inspector cannot, without authorization, do work or furnish materials thereon for any sum exceeding five dollars in any one year, without giving previous notice to the parties in default..... 397
- " the road inspector must, whenever he has performed work or furnished materials without authorization, give immediate notice to the parties in default..... 397
- " the corporation must have them kept in the state of repair required by law and by the acts respecting them, under penalty of a fine and damages, saving their recourse..... 793
- " See roads (municipal.)
- SIGNATURE, any person unable to sign his name should make his mark in the presence of a subscribing witness..... 12
- " any person able to sign his name and read print only, is not deemed able to read and write within the meaning of this code..... 17
- SLAUGHTER-HOUSES, the local council may regulate the manner in which they may be built and kept in repair..... 596
- " the town or village council may, by by-law, prevent their erection and cause the removal of existing ones..... 649
- SLOPES, municipal roads should be kept free from..... 788
- SMOKING in certain localities, See FIRES.
- SNOW, See HOUSES, ROOFS, ROADS.
- SNOW-PLOUGH, the local council may oblige the road inspector to procure a snow-plough..... 385
- " the use thereof on municipal roads may be compulsory..... 385
- SOAP, See FACTORIES.
- SQUARES, See PUBLIC PLACES.
- ST. ANNE DES MONTS, (local council of,) possesses the powers of a county council..... 1081

ST. COLOMB DE SILLERY, in the county of Quebec, exceptional provisions respecting it.....	1830
ST. GERMAIN, in the county of Drummond, name of the municipality.....	1084
ST. JEAN, (local council of,) in the county of Chicoutimi, possesses the powers of a county council.....	1081
ST. PIERRE DE LA POINTE AUX ESQUIMAUX, (local council of,) possesses the powers of a county council.....	1081
ST. ROMUALD D'ETCHEMIN, (council of the parish of,) possesses the powers of a town or village council ...	1081
ST. SAUVEUR DE QUEBEC, (municipality of,) its name.....	1084a
STABLES, the local council may make by-laws respecting the cleansing of .....	592
" See FIRES.	
STANSTEAD (county of) works to roads and bridges therein are performed by the local corporations.....	1080
STATEMENT compiled of the municipal reports.....	168b
" by the iron or w'den ry. c'panies to be transmitted.	720
" of amounts of municipal and school taxes, the expenses of perception, prepared by sec. Treas. of local council .....	371
STEPS OR STAIRS, See ERECTIONS.	
STONES, municipal roads must be kept free from.....	788
STOVES, the town or village council may, by by-law, regulate the manner in which they are to be put up and used.	653
STOVE-PIPES, the town or village council may, by by-law, regulate the manner in which they are to be put up and used .....	653
STREETS and lanes are included in the word "road" .....	19 § 27
" See ROADS.	
SUNDAYS the local council may prevent horse races on.....	601
SUPERINTENDENT (special) See MUNICIPALITY, (village,) <i>procès-verbaux</i> .....	53, 794, 804, 814, 884
" may be appointed amongst persons domiciled out of the municipality .....	204
SUPERPHOSPHATE of lime, See DELETERIOUS MATTER.	
SURATIES OF THE SECRETARY-TREASURER may free themselves from future liability.....	150
" may obtain a certificate of discharge.....	153
" persons who have acted as such cannot be members of the council until discharged from all liability towards the corporation .....	155
" See SECURITY.	
SURGEONS, their annual income is taxable property....	710
SURVEYOR, See LAND SURVEYORS (provincial).	
SWEEPINGS, See FILTH.	
TADOUSAC (local council of) in the county of Saguenay, possesses the powers of a county council.....	108
TANNERIES may be regulated by the town or village council.	649, 651

TARIFF

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TAVERNS

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TAXES and

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ceptio- .....	1830	TARIFF of fees of municipal officers may be made by by-law or resolution .....	471 (480) 560
e of the .....	1084	" must be posted up in the office of the council.....	471
outimi, .....	1081	TAVERNS, the local council may, by by-law, cause their bars to be closed from Saturday until Monday...	600
ncil of,) .....	1081	TAVERN-KEEPERS are disqualified for municipal offices.....	203
F,) pos- .....	1081	TAXES and contributions in material or labour, are convertible into money, after they fall due.....	945
ncil ... ..	1084a	" such taxes and contributions are municipal taxes, when liquidated or converted into money by a judgment, or by a resolution of the council after special notice to all interested parties.....	19 § 22
pecting .....	592	" (municipal,) definition of.....	19 § 22
therein .....	1080	" may be levied by by-law of the council on all taxable property or only on all taxable real estate..	489
.....	168b	" may be levied by by-law of the council on the property of all persons interested in any work...	490
mitted. ....	720	" may be levied by by-law of the council on the property of certain persons on a petition there- to by a majority of such persons .....	491
the ex- .....	371	" must be imposed by any by-law which authorizes an issue of debentures or a loan .....	495
reas. of .....	788	" those for the payment of the debentures or of their interests, may be imposed or levied ac- cording to the last roll, if the valuation is not less .....	978a
.....	653	" can be imposed on real estate only, if the debentures are made payable five years after date.....	986
.....	653	" how apportioned .....	937, 942
" ..... 19 § 27	19 § 27	" imposed by the county council are levied on the local corporations of the county .....	938
on.....	601	" the portion imposed on each local corporation is a debt due by such corporation to the county corporation .....	939
village,) .....	804, 814, 884	" how such portion is levied .....	939
iled out .....	204	" apportionment of county taxes, when made by the secretary-treasurer of the county.....	940
hemsel- .....	150	" such apportionment must be approved by the county council.....	940
.....	153	" a copy thereof is transmitted to each local council.....	940
be mem- .....	153	" special county taxes, how collected .....	941
from all .....	710	" the local council may exempt certain kinds of business, and the persons carrying on the same, or make certain arrangements with them .....	943
.....	108	" the local council may exempt the poor from the payment of taxes .....	943
guenay, .....	649, 653		





## TAXES :—

extend front	943	" at the expiration of such delay the secretary-treasurer must make a demand of payment.....	961
to the	944	" fee for the service of such demand .....	961
money	945	" fifteen days after such demand the amounts due may be levied by the secretary-treasurer by seizure and sale of the chattels and effects found in the municipality .....	962
ion.....	946	" the warrant of seizure is signed by the mayor, addressed to a bailiff and executed the same as any writ <i>de bonis</i> from the circuit court .....	963
ate on	947	" notice of the day and place of sale is given by the bailiff.....	964
.....	947	" such notice must set forth the names and quality of the debtor.....	964
om the	948	" if the debtor is absent, or in the event of refusal to open the doors, &c., the bailiff may be authorized to cause the same to be opened.....	965
m any	949	" opposition to the seizure and sale of effects, founded on a right of property or of privilege, must be accompanied by a deposit of money.....	966
ame is	950	" how such opposition is made, heard, and adjudicated upon.....	966
in the	501	" what becomes of the deposit.....	967
wner...	951	" the proceeds of the sale are applied to the payment of the debt and costs.....	968
three	953	" the surplus is returned to the debtor, unless claims are made against it .....	968
forms	584	" in the event of claims being made against it, the surplus is retained by the secretary-treasurer until there is a judgment of the court, or the parties come to an understanding respecting it..	968
peace,	951	" in case of a sale by law, or a demand for ratification of title, or expropriation, the secretary-treasurer must file the claim of the corporation.	969
ipality	953	" any rate-payer required to pay an amount greater than that which he owes, may plead by exception or opposition .....	970
law of	584	" how such opposition is made, heard and decided ; it delays the sale if accompanied by an order to that effect.....	970
abitant	595	" the secretary-treasurer may, at the expense of the corporation, employ assistance in collecting the taxes..	971
by-law	599	" he is responsible for those he employs .....	971
cil, on	615	" he must every year, in the month of November, draw up a statement of the arrears and submit it for the approval of the council.....	371, 372
cil, on	954		
perform-	954		
.....	955		
cil, on	956 to 959		
sale of	960		
asurer			
.....			
orth in			
.....956 to			
lection			
forth			
.....			

<b>TAXES:—</b>	
“ an extract of such statement must be sent to the office of the county council .....	373
“ See SALE OF LANDS FOR TAXES.	
“ (municipal and school) must be paid to qualify a municipal elector .....	291
“ (school) the local council, on the requisition of the school commissioners or trustees, orders the secretary-treasurer to collect such taxes at the same time as the municipal taxes .....	952
“ in any such case, the secretary-treasurer must enter them on the collection roll, levy them, and remit them to the secretary-treasurer of schools..	959
“ in cases of village municipalities in which the population exceeds 10,000 souls .....	640i
<b>TEACHERS</b> , in the exercise of their calling are exempt from municipal offices .....	209
<b>TELEGRAPH</b> , aid to companies may be granted by by-law of the council .....	480 and fol.
<b>TEMPERANCE</b> , by-law respecting. See LIQUOR (intoxicating or strong).	
<b>TENANT</b> , signification of the word .....	19 & 19a
“ may be compelled to do works in regard to clearances, boundary ditches or fences and water-courses, saving his recourse against the owner..	413
“ may, by by-law of the local council, be liable to a personal tax .....	584
“ may be compelled to pay the taxes on the land he occupies, saving his recourse against the owner.	948, 949
<b>TERRITORY</b> , governed by the municipal code. ....	1
“ not erected into a local municipality or of which the council is not organized, is governed by the county council .....	28
“ annexed to a parish by civil authority or by the legislature; when does it form part of the municipality of such parish .....	30
“ situated in a township; when may it be annexed to a parish municipality by the county council...	33
“ annexed to a township, by proclamation; when does it form part of the municipality of such township.	36
“ annexed to a municipality is not liable for the debts of such municip. contract. before the annexation	91
“ See ANNEXATION, MUNICIPALITY.	
<b>THEATRES</b> may be regulated and taxed by the local council,	599
“ how such tax is recoverable .....	599
<b>THEFTS</b> and depredations at fires, the town council may make by-laws for their prevention. ....	664
<b>TRISTERS</b> . See NOXIOUS WEEDS.	

TOLLS

“

“

“

“

“

TOLL BA  
TOMBS,  
TOWN,

TOWNSH

“

“

“

TRADERS

TREES, 1

“

“

“

“

“

“

TURNPIKE

“

UNHEALTH

USUFRUCT

VACANCIES

“ in

# MUNICIPAL CODE.

537

TOLLS on county bridges may be levied by by-law of the county council.....	520
" certain persons may be exempted from their payment .....	520
" on local roads and bridges, may be levied by the local council .....	542
" certain persons may be exempted from their payment .....	542
" on ferries may be fixed or approved by by-law of the local council .....	550, 551
" must be the same for every person.....	550, 551
TOLL BARS <i>See</i> TURNPIKES.	
TOMBS, <i>See</i> BURIAL GROUNDS.	
TOWN, <i>See</i> ANNEXATION, MUNICIPALITY.	
" Council, <i>See</i> COUNCIL.	
TOWNSHIPS, definition of the word .....	19 § 5
" or part of a township, when must it be annexed to an adjoining rural municipality.....	35, 37
" <i>See</i> MUNICIPALITY, TERRITORY.	
" (united) <i>See</i> MUNICIPALITIES.	
" where are the municipal taxes expended, which are levied by the local council .....	953
TRADERS by wholesale or retail may, by by-law of the local council, be obliged to take out a trading license .....	582
TREES, the local council may by by-law, cause trees to be planted along public roads.....	547
" the local council may, by by-law, prevent the destruction of those kept for shade or ornament .....	558
" planted or kept on municipal roads; penalty for mutilating or injuring them.....	792
" fruit trees, or trees reserved for ornament need not be cut down in virtue of any <i>procès-verbal</i> .....	802
" <i>See</i> CLEARANCES.	
" TRENCHES, in municipal roads are deemed nuisances .....	87
" when authorized, are not deemed obstructions .....	389
TURNPIKES may be set up, under a by-law, by the county council on its bridges.....	520
" may be set up by the local council, under a by-law, on its bridges, and on its roads whether macadamized, paved or planked.....	542
UNHEALTHY PLACES, <i>See</i> PLACES (unhealthy and unwholesome.)	
USUFRUCT, <i>See</i> PROPRIETOR.	
VACANCIES which the council is bound to fill, may be filled after the delay has expired .....	101
" in the place of any municipal officer must be filled within thirty days.....	184

VACANCIES in the office of warden, when must they be filled...	249
" in the office of local councillor, when do they occur .....	337
" when must they be filled .....	339
" may be filled by the lieutenant-governor if the council neglects to act.....	340
" notwithstanding any vacancy, the local council exercises its powers if there is a quorum.....	338
" if in consequence of any vacancies, less than four councillors remain in office, such vacancies are filled by the lieutenant-governor.....	341
" in the office of mayor, when do they occur.....	342
" when must they be filled.....	343
" are filled by the lieutenant-governor on the neglect of the council.....	344
VALIDITY of any act is not affected by unnecessary allegations, or expressions.....	14
" of any debentures issued under a by-law approved of by the lieutenant-governor is not affected by any irregularity or illegality .....	997
VALUATION of taxable property.....	709 to 747
" lands which are taxable.....	709
" movable property which is taxable.....	710, 711
" property not taxable.....	712
" crown lands on which there are occupants are taxable as to such occupants.....	714
VALUATION ROLL, when must it be made.....	716
" if there is none in the municipality.....	717
" if it has been annulled.....	717, 747
" what it must contain.....	718, 722, 723
" information respecting the census and statistics must be inserted in it if required by the lieutenant governor.....	724
" what is included in the actual value of real estate	719
" return to be made by iron and wooden railway companies .....	720
" such return to serve as a valuation of their real estate .....	721
" if no return has been made.....	722
" by whom signed and attested.....	725
" must be deposited in the office of the council.....	726
" if it has not been deposited the mayor or the secretary-treasurer must notify the lieutenant-governor.....	727
" appointment of valuers by the lieutenant-governor.....	728, 731
" rights and powers of such valuers.....	728, 729
" their fees; by whom payable.....	730

# MUNICIPAL CODE.

539

illed... 249  
 they 337  
 339  
 if the 340  
 council 338  
 n four  
 es are 341  
 342  
 343  
 neglect 344  
 allega- 14  
 proved  
 ed by 997  
 709 to 747  
 709  
 710, 711  
 712  
 re tax- 714  
 716  
 717  
 717, 747  
 718, 722, 723  
 tistics  
 he lieu- 724  
 estate 719  
 ailway 720  
 ir real 721  
 722  
 725  
 l. 726  
 secre-  
 gover- 727  
 gover- 728, 731  
 728, 729  
 730

VALUATION ROLL, the three valuator must act together.....	733
“ public notice of the deposit of the roll must be given by the secretary-treasurer.....	732
“ any person wronged by the roll prepared by the valuator, may have it amended on application to the council.....	735
“ its examination and amendment by the local council.....	734, 738
“ public notice thereof must be given.....	736
“ the council must take cognizance of all complaints.....	737
“ must be forwarded to the county council; when and by whom.....	739
“ its examination and amendment by the county council.....	740, 741
“ period at which it comes into force.....	742
“ period during which it remains in force, its use....	743
“ may be annulled by the circuit court or by the magistrate's court.....	5,100
“ remains in force until annulled.....	5,100, (461)
“ penalty incurred by valuator who refuse to discharge their duties.....	744
“ penalty incurred by those who refuse to give the valuator any information they may require.....	745
“ the local council may, after every change of owner, insert the name of the new owner in place of the former on the valuation roll.....	746
“ the same council may the year during which a roll is not made, revise that in force.....	746a
“ an appeal lies to the county council, from amendments made by the rural council, to the valuation roll prepared by the valuator.....	927
VALUATORS, persons who have no domicile in the municipality may be appointed.....	204
“ three are appointed by the local council each year in the month of March.....	365
“ take an oath of office.....	366
“ when they enter upon the discharge of their duties.....	366
“ period during which they remain in office.....	366
“ penalty for refusing to accept or to continue his office.....	367a
“ must own real estate to the value of \$400.....	374
“ may employ the secretary-treasurer or a clerk, fees for such services.....	375
“ their duties with respect to personal taxes.....	585

VALUATORS, their duties with respect to the valuation of taxable property and the roll thereof.....	716 to 733, 745
See VALUATION,	
" their duties with respect to expropriation for municipal purposes.....	908 to 918
" See EXPROPRIATION.	
VEHICLES, (winter), may be regulated by the county council..	521
" the town or village council may, by by-law, levy duties on vehicles in which articles are exposed for sale.....	632
" the town or village council may, by-law regulate the manner in which such vehicles shall be placed	633
VILLAGE, See ANNEXATION, MUNICIPALITY.	
" council, See COUNCIL.	
" erection of a municipality for a new.....	51
" municipality, its existence, on the coming into force of this code.....	49
" municipalities, their names.....	67
" incorporated in certain cases, its corporate name....	48a
VIOLENCE employed to prevent an elector from approaching the poll, when does it delay the closing of the poll.....	324
" employed at the election of the mayor or local councillor gives rise to a contestation of the election...	346, 347
VOTATION:—when electors may require a poll.....	312
VOTE given by a member of a council illegally holding office is not null by reason thereof.....	120
" by the president of the council, when may or must it be given.....	134
" (of the council), how taken .....	137
WALLS, the local council may by by-law, prohibit, the writing or posting up of indecent words, placards, &c., thereon.....	604
" in a state of decay, the town or village council may, by by-law, cause them to be pulled down...	642
" safety and division walls upon public roads may be regulated by the town or village council.....	667
WARDEN, See HEAD OF THE COUNCIL, MEMBER OF THE COUNCIL.	
" any oath required by this Code may be made before a warden .....	6
" is appointed every year in the month of March.....	248
" when appointed in a new municipality.....	248
" vacancy in the office, when filled.....	249
" appointment of, by the lieutenant-governor.....	250
" time during which he remains in office.....	251
" appointed by the council may be removed by a vote of two thirds of the members of such council	252

WARD

"

"

"

"

"

"

"

"

"

"

WARDS

WASHI

WATER

"

"

"

WATER-

"

"

"

"

"

"



## WARDEN :—

" contestation of appointment by the council how carried on.....	253
" penalty for refusing to accept the office.....	254
" by whom are the duties discharged when there is no warden.....	255
" is ex-officio one of the county delegates.....	262
" must give previous notice of the election of councillors in every new local municipality.....	294
" penalty for neglect.....	295
" an indemnity for board and travelling expenses may, by by-law, be allowed him.....	524
" his duties with respect to the approval of a by-law by the electors.....	672, 684
" when, in cases of appeal, must he convene a special session of the council.....	930
" gives notice of the day, etc., when the council shall take the appeal in consideration.....	931a
" must execute a deed of sale in favour of the purchaser of lands sold for taxes, two years after such sale, if they have not been redeemed.....	1009
" requires the registration of such deed of sale.....	1010
WARDS in a town or village municipality divided in wards and limits determined by a by-law from a council	617
WASHING in public waters or in the open air, near the high road; the local council may, by by-law, prevent or regulate the manner of so doing.....	605
WATER, stagnant, the town or village council may, by by-law, cause it to be drained.....	652
" deep, on any municipal road, See DANGEROUS PLACES.	
" filthy, See FILTH.	
" streets and sidewalks, the town or village council may, by by-law, order it to be done.....	670
WATER-COURSES, (municipal,) what are municipal water-courses.....	867, 868
" are either local or county.....	869
" which are local.....	869
" which are county.....	869
" by whom is the work thereon performed.....	870, 871
" manner in which the work is performed.....	872
" are under the superintendence and direction of the rural inspector unless a special officer has been appointed.....	406, 873
" such officer has the same powers and obligations as the rural inspector.....	406
" the work of opening a water-course cannot be superintended by a rural inspector who is personally interested.....	874

## WATER-COURSES :—

- " must be kept in good order and clear from the 1st June to the 31st October..... 875
- " when must the rural inspector visit and examine them..... 876
- " such officer must see to the execution of the necessary work thereon..... 406, 876
- " no one is liable for work thereon between the 1st November and the 31st May, except owing to obstruction from snow or ice, and on the order of the inspector ..... 877
- " under the control of what corporations are they..878 (757)
- " local, may be declared county by the council or the board of delegates.....878 (758, 759)
- " county may be declared local by the same authority.....878 (758, 759)
- " of several counties may be declared by the board of delegates to be local or of one county only..878 (759)
- " after any such declaration at whose charge is the work.....878 (760)
- " such declarations are made by resolution or in a *procès-verbal*.....878 (758, 759)
- " such declarations must be preceded by a public notice, and published after the passing thereof..878 (761)
- " such declarations may be made for any water-courses yet to be made.....878 (762)
- " unoccupied crown lands are not liable for work thereon .....878 (780)
- " the occupants of crown lands are liable.....878 (780)
- " the occupants of any land divided after the passing of the act respecting the work to be done thereon are jointly and severally liable.....878 (781)
- " no rate-payer is liable for work thereon in any neighbouring municipality, except on county water-courses.....878 (782)
- " works may be done by contract if so ordered...878 (786)
- " the work of keeping them in repair may be given to the lowest tender by the rural inspector in the months of April and October..... 878 (787, 928)
- " when the persons liable for work are in default to perform such work.....878 (789)
- " the contractor is liable to the same obligations and penalties and is the surety for those whose work he has contracted to do..... 878 (790)
- " the non-execution of work by persons in default renders them liable to damages and to a penalty.....878 (791)

## WATER-COURSES :—

- " in any such case the work may be done by the rural inspector.....408 (397)
- " or by the council on the report of that officer.....408 (399 to 401)
- " and the value, with 20 per cent. in addition thereto, is recoverable by the officer or the council that has done the work..... 408 (398, 401 to 403)
- " the rural inspector cannot, without giving previous notice to the persons in default, cause work to be done or materials to be furnished for any sum exceeding five dollars in any one year.....408 (397)
- " the rural inspector must, whenever he has, without authorization, done any work or furnished any materials, give immediate notice to the persons in default.....408 (397)
- " exception in favour of certain companies with respect to work on water-courses..... 21, 22
- " See COMPANIES, (iron or wooden railway.)
- " joint work, by whom and how ordered and superintended .....407 (382 to 384)
- " the corporation must keep them in the state required by law and by the acts which regulate them, except those governed by acts of agreement under a penalty of fine and damages, saving its recourse.....878 (793)
- " penalty incurred by persons neglecting to remove obstructions..... 879
- " roads, dams and dykes are not demolished because they are obstructions to water-courses..... 880
- " no one is bound to make, on his land a water-course of a depth greater than necessary for draining such land..... 881
- " may be made through any neighboring land, or existing ones may be made use of for the purpose of draining swampy lands..... 882
- " work on such water-courses, how regulated..... 882
- " the rural inspector may authorize an excavation in any public road to admit of the passage of a water-course..... 883
- " such excavation must be indicated day and night..... 883
- " a bridge must be built over such excavation within forty-eight hours..... 883
- " the work to be done by the rate-payers may be regulated and determined by by-law of the council..... 884
- " or is regulated and determined by a *procès-verbal*. 884, 885
- " See PROCÈS-VERBAUX.

## WATER-COURSES :—

" is regulated and determined by an act of agree-	888
" in the absence of any by-law, <i>procès-verbal</i> or act of agreement, by whom is the work done.....	871
" the waters of any water-course may be turned into any other.....	886
" any person may be made liable for work in proportion to the extent of his land drained by such water-course.....	887
" an error of not more than ten per cent, is not taken into account in estimating the land so drained.....	887
" an act of agreement must be approved by the council or by the board of delegates.....	888
" an act of agreement takes the place of any other act by which the water-course is governed.....	889
" acts of agreement, to what extent obligatory and under what penalty.....	889
" acts of agreement may be repealed by the council or by the board of delegates, or by the consent of the parties thereto.....	889
" a copy must be deposited in the office of every local municipality through which such water-course runs.....	890
" the council may, by by-law, cause the work to be done at the expense of the corporation.....	475 (460)
" effect of such by-law with respect to the acts governing the works and the persons liable.....	475
" filth found in any water-course must be removed.	415
" penalty incurred by any person throwing filth into a water-course.....	416 391
" and their banks may be made use of, subject to the charge of repairing any damage occasioned thereby.....	891
" natural water-courses, when are they municipal...	868

WATER-WORKS, *See* AQUEDUCTS.WEEDS, *See* NOXIOUS WEEDS.

WELLS, (public) may be established and kept in repair by by-law of the town or village council..... 887

WHARVES, (government), may be acquired by the council, by by-law or resolution... 486, 487 (460)

WILD ANIMALS, rewards for the destruction of, may be given by by-law or resolution of the council... 505 (460)

WINE, *See* LIQUOR (intoxicating or strong).

WITNESSES, summoning of, by the council or the com- 98

## WITNESS :—

- " no witness is inadmissible from being an elector rate-payer or member of the council..... 7
- " whoever is entitled to be heard by the council or the committee may produce witnesses..... 97
- " may be summoned by the council or the committee..... 98
- " no fresh witnesses are heard in any appeal to the circuit court, unless the appeal is from a decision of a county council or a board of delegates..... 1071

- Wood, cord wood, the measuring thereof may be regulated by the local council..... 580
- " lumber do do do 580
- " shingles, do do do 580
- " the by-law may authorize the confiscation thereof, if sold in contravention of its provisions..... 581

- WORKS, (public), aid to, may be granted by the council..... 477, (460), 479 and fol.
- may be acquired by by-law or resolution of the council..... 485 (460)
- " forming part of the municipal roads ; penalty for injuring them..... 792
- " See PUBLIC WORKS.

## WRITING, (knowledge of reading and writing)

See READING AND WRITING.

- YARDS, the local council may make by-laws respecting the cleansing of yards..... 592

agree- 888

or act 871

ed into 886

in pro- 887

y such

is not

and so 887

by the 888

other 889

d..... 889

ry and 889

council

nsent 889

y local

course 890

to be

.....475 (460)

e acts

le..... 475

moved. 415

h into

.....416 391

to the

sioned

..... 891

ipal... 868

repair 837

.....

council,

85, 467 (460)

ay be

il...505 (460)

com-

..... 98

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